

Introduced by Committee on Budget and Fiscal Review

January 9, 2014

An act relating to the Budget Act of 2014. An act to amend Section 17415 of the Family Code, to amend Sections 1506.5, 1520.3, 1522, 1523.1, 1523.2, 1533, 1534, 1550, 1551, 1556, 1558, 1562, 1568.05, 1568.07, 1569.185, 1569.20, 1569.48, 1569.525, 1569.682, 1596.803, 1596.871, 1796.12, 1796.14, 1796.16, 1796.17, 1796.19, 1796.22, 1796.23, 1796.24, 1796.25, 1796.26, 1796.29, 1796.31, 1796.44, 1796.45, 1796.47, 1796.48, 1796.49, 1796.52, 1796.55, 1796.61, and 1796.63 of, to amend and renumber Sections 1796.33, 1796.34, 1796.35, 1796.36, 1796.37, and 1796.42 of, to amend, renumber, and add Sections 1796.38 and 1796.41 of, to add Sections 1546.1, 1546.2, 1548.1, 1569.481, 1569.482, and 1796.40 to, to repeal Sections 1796.39 and 1796.56 of, and to repeal and add Section 1546 of, the Health and Safety Code, and to amend Sections 300, 10104, 10553.11, 11320.32, 11322.8, 11325.24, 11402.4, 11450.025, 11460, 11477, 12301.1, and 18906.55 of, to add Sections 11461.3, 12300.4, and 12300.41 to, to amend, repeal, and add Sections 18901.2 and 18901.5 of, and to add Article 3.3 (commencing with Section 11330) to Chapter 2 of Part 3 and Chapter 5.2 (commencing with Section 16524.6) to Part 4, of Division 9 of, the Welfare and Institutions Code, relating to human services, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

SB 855, as amended, Committee on Budget and Fiscal Review.
~~Budget Act of 2014. Human services.~~

(1) Under existing law, the State Department of Social Services regulates the licensure and operation of various types of facilities, including community care facilities, residential care facilities for the elderly, residential care facilities for persons with chronic, life-threatening illness, child day care centers, and family day care homes. Existing law requires that some of these facilities be subject to unannounced visits by the department at least once every 5 years.

Existing law, the California Community Care Facilities Act, provides for the licensure and regulation of foster family agencies, as defined, by the department. Under existing law, foster family agencies certify foster family homes and find homes or other placements for children. Existing law specifies how foster family agencies are required to carry out these functions, including a requirement that a foster family agency annually recertify a certified family home. A violation of these provisions, or the willful or repeated violation of any rule or regulation promulgated under this provision, is a crime.

This bill would require a foster family agency to conduct an announced inspection of a certified family home during the annual recertification and an unannounced inspection when certain circumstances are present, including when a certified family home is on probation. The bill would also authorize a foster family agency to inspect a certified family home more frequently than annually in order to ensure the quality of care provided. The bill would clarify that certain provisions relating to regulation and licensing of community care facilities generally are applicable to certified family homes approved by a foster family agency. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(2) Existing law requires the department to inspect a residential care facility for persons with chronic, life-threatening illness within 90 days after the facility accepts its first resident for placement following its initial licensure. Existing law also requires that evaluations be conducted annually and as often as necessary to ensure the quality of care being provided.

This bill would instead require that annual inspections be conducted at least annually and that both types of inspections conducted pursuant to these provisions be unannounced.

(3) Existing law, the California Residential Care Facilities for the Elderly Act, provides for the department to license and regulate residential care facilities for the elderly. A violation of the act is a misdemeanor.

Existing law requires the department to immediately request a fire clearance and notify an applicant for a license to operate a residential care facility for the elderly to arrange a time for the department to conduct a precicensure survey if an application for initial licensure is complete.

This bill would provide that the precicensure inspection is optional at the discretion of the department if the department determines that an application is for licensure of a currently licensed facility for which there will be no material change to the management or operations of the facility.

(4) Existing law requires, if the Director of Social Services determines that it is necessary to temporarily suspend a license of a residential care facility for the elderly in order to protect the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department to make every effort to minimize trauma for the residents. Existing law authorizes and requires the department, in the event of a temporary license suspension or revocation, to comply with specified procedures relating to the transfer of residents, including requiring the department to contact and work with any local agency that may have placement or advocacy responsibility for the residents of a residential care facility for the elderly, as specified, to locate alternative placement sites and contact responsible relatives. Existing law requires, upon an order to revoke a license, a licensee to provide a 60-day written notice of license revocation that may lead to closure to the resident and the resident's responsible person within 24 hours of receipt of the department's order of revocation. Existing law entitles a resident who transfers from the facility during that 60-day period to a refund of preadmission fees in accordance with specified provisions.

This bill would require, if the Director of Social Services determines at any time during or following a temporary suspension or revocation of a license that there is a risk to the residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department to take any necessary action to minimize trauma for the residents, including, but not limited to, arranging for the preparation of the residents' records and medications for transfer and checking in on the status of each transferred resident within 24 hours of transfer. The bill would additionally require the department to contact the Office of the State Long-Term Care Ombudsman after a decision is made to temporarily suspend or upon

a final order revoke a license that is likely to result in closure of the facility. The bill would also require, upon an order to temporarily suspend a license, a licensee to immediately provide a written notice of license suspension to the resident and initiate contact with the resident's responsible person, as specified, and would entitle a resident who transfers due to the receipt of a notice of a temporary suspension or revocation of license to be entitled to a refund of preadmission fees.

This bill would prohibit a licensee, upon receipt of an order to temporarily suspend or revoke a license, from accepting new residents or entering into admission agreements for new residents. The bill would generally make a licensee who fails to comply with the requirements of these provisions liable for civil penalties in the amount of \$500 per violation per day for each day that the licensee is in violation of these provisions until the violation has been corrected. By expanding the scope of a crime, this bill would impose a state-mandated local program.

(5) The bill would authorize the department to appoint a temporary manager to assume the operation of a residential care facility for the elderly for 60 days, subject to extension by the department, when specified circumstances exist, including when the director determines that it is necessary to temporarily suspend the license of the facility and immediate relocation of the residents of the facility is not feasible, or when the licensee has opted to secure a temporary manager in response to a final order to revoke a license. The bill would set forth the duties of the temporary manager, would limit the expenditures and encumbrances by the temporary manager unless approved by the department, and would require that the costs of the temporary manager be paid directly by the facility while the temporary manager is assigned. To the extent department funds are used for the costs of the temporary manager or related expenses, the bill would require the department to be reimbursed from the revenues accruing to the facility or to the licensee, and to the extent those revenues are insufficient, the bill would require that the unreimbursed amount constitute a lien upon the asset of the facility or the proceeds from the sale of the facility, as specified.

The bill would also authorize the department to apply for a court order appointing a receiver to temporarily operate a community care facility or a residential care facility for the elderly for no more than 3 months, subject to extension by the department, when circumstances exist indicating that continued management of the facility by the licensee would present a substantial probability of imminent danger or serious physical harm or death to the clients or residents or the facility is closing

and adequate arrangements for the relocation of clients or residents have not been made. The bill would specify the duties of a receiver appointed pursuant to these provisions and would require that the salary of the receiver be set by the court and be paid from the revenue coming to the facility. In the event the revenue is insufficient, the bill would require that the salary be paid from the emergency client contingency fund. The bill would require that state funds advanced to pay for that salary or other related expenses be reimbursed from the revenues accruing to the facility. If those revenues are insufficient, the bill would require that the unreimbursed amount constitute a lien on the assets of the facility.

(6) Existing law establishes a schedule of licensing fees to be charged by the department for each type of facility, and provides for these fees to be deposited into the Technical Assistance Fund.

This bill would increase the licensure and renewal fees for community care facilities, residential care facilities for persons with chronic, life-threatening illness, residential care facilities for the elderly, and child day care facilities, and would require the department to adjust the fees assessed against licensees as necessary to ensure they do not exceed specified costs.

(7) Existing law authorizes the department to impose various civil penalties for various licensing violations. Existing law authorizes the department to transmit no more than $\frac{1}{2}$ of those penalties assessed against community care facilities and residential care facilities for the elderly to be used to establish an emergency resident relocation fund to be utilized for the care and relocation of residents when the license of a community care facility or a residential care facility for the elderly is revoked or temporarily suspended, when appropriated by the Legislature. Existing law requires the department to seek the advice of providers in developing a state plan for emergency resident relocation.

The bill would instead authorize the creation of an emergency client contingency account and an emergency resident contingency account within the Technical Assistance Fund to be used, at the discretion of the Director of the State Department of Social Services, for the care and relocation of clients and residents when a facility's license is revoked or temporarily suspended. The bill would require the department to seek the input of stakeholders and local agencies in developing policies for emergency client or resident care and supervision. The bill would also authorize the civil penalties deposited

in the Technical Assistance Fund to be used for the technical assistance, training, and education of licensees.

(8) This bill would provide that it is the intent of the Legislature to comprehensively increase the penalties for facilities licensed by the State Department of Social Services in subsequent legislation, with particular emphasis on penalties for violations that result in serious injury or death.

(9) This bill would provide that it is the intent of the Legislature that increased staffing and funding resources for the State Department of Social Service's Community Care Licensing Division appropriated in the Budget Act of 2014 be used to enhance the division's structure and improve operations, as specified. The bill also provides that it is the intent of the Legislature to, over a period of time, increase the frequency of facility inspections resulting in annual inspections for some or all facility types. The bill would require the State Department of Social Services to update the Legislature on the status of the structural and quality enhancement improvements during the 2015–16 legislative budget subcommittee hearings.

(10) The Home Care Services Consumer Protection Act, operative January 1, 2015, provides for the licensure and regulation of home care organizations, as defined, by the State Department of Social Services, and the registration of home care aides. The act excludes specified entities from the definition of a home care organization and does not include certain types of individuals as home care aides for the purposes of these provisions. The act requires background clearances for home care aides, as prescribed, and sets forth specific duties of the home care organization, the department, and the Department of Justice in this regard. The act requires home care aides hired after January 1, 2015, to demonstrate they are free of active tuberculosis. A violation of the act is a crime.

This bill would revise and recast the provisions of the act and delay the implementation date of the act to January 1, 2016. Specifically, the bill would delete those provisions of the act that exempt specified individuals from the registration requirements for home care aides described above and expand the list of individuals and entities that are not considered home care aides or home care organizations, respectively, for purposes of the act. The bill would require that each home care organization be separately licensed, as specified. This bill would additionally require the chief executive officer or other person serving in a similar capacity in a home care organization, as specified,

to consent to a background examination. The bill would prohibit the department from issuing a provisional license or license to any corporate home care organization applicant that has a member of the board of directors, executive director, or officer who is not eligible for licensure, as specified.

This bill would revise the licensure requirements of a home care organization to additionally require certain disclosures and proof of an employee dishonesty bond. The bill would also revise the license renewal requirements for home care organizations to include, among other things, specified insurance and workers' compensation policies and being current on all fees and civil penalties due to the department. The bill would provide certain review procedures for applications for licensure received by the department. The bill would, among other things, require the department to cease any further review of an application for a specified period of time if it is determined that the home care organization applicant was previously issued a license pursuant to the act or other specified provisions of law and that license was revoked, as specified. The bill would apply similar requirements to a home care organization applicant that had previously applied for a certificate of approval with a foster family agency and was denied, as specified. The bill would also authorize the department to exclude a person from acting as, and require the home care organization to remove that person from, his or her position as a member of the board of directors, an executive director, or an officer of a licensee if the department determines that the person was previously issued a license pursuant to the act or other specified provisions of law and that license was revoked, as specified, or if the person was previously issued a certificate of approval by a foster family agency that was subsequently revoked, as specified.

This bill would require home care organization licensees to report any suspected or known dependent adult, elder, or child abuse to the department. The bill would require the department, upon receipt of these reports, to cross-report the suspected or known abuse to local law enforcement and Adult Protective Services or Child Protected Services, as specified. The bill would authorize home care organization applicants and home care aide applicants who submit applications prior to January 1, 2016, to provide home care services without meeting the tuberculosis requirements described above, provided those requirements are met by July 1, 2016. The bill would authorize the

department to adopt and readopt emergency regulations to implement and administer the provisions of the act, as specified.

This bill would require all fines and penalties collected for violations of the above provisions to be deposited into the Home Care Technical Assistance Fund, which would be created by the bill. The bill would require that the moneys in the fund be made available to the department upon appropriation by the Legislature for specified purposes.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

(11) Existing law, the California Community Care Facilities Act, provides for the licensure and inspection of community care facilities, including, but not limited to, group homes, by the State Department of Social Services. Existing law makes any violation of the act a misdemeanor.

This bill would require each person employed as a facility manager or staff member of a group home on or after October 1, 2014, to be at least 21 years of age, except as specified. Because a violation of this requirement would be a crime, the bill would impose a state-mandated local program.

(12) Existing law authorizes the Director of Social Services to enter into an agreement with a tribe, consortium of tribes, or tribal organization, regarding the care and custody of Indian children and jurisdiction over Indian child custody proceedings, under specified circumstances. Pursuant to these agreements, these child welfare activities are delegated to the tribe, consortium of tribes, or tribal organization, which is also required to provide specified matching funds. Existing law specifies the share of costs required of the tribe, consortium of tribes, or tribal organization operating a program pursuant to these agreements.

This bill would, notwithstanding those provisions, adjust the tribal share of costs commencing July 1, 2014.

(13) Existing law requires a county welfare department to refer all cases in which a parent is absent from the home, or as specified, to the local child support agency immediately at the time of the application for public assistance, except as specified.

Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using federal Temporary Assistance to Needy Families (TANF) block grant program, state, and county funds. Existing law requires each applicant

or recipient to, as a condition of eligibility for aid paid under CalWORKs, assign to the county any rights to support from any other person the applicant or recipient may have on his or her own behalf, or on behalf of any other family member for whom the applicant or recipient is applying for or receiving aid, and to cooperate with the county welfare department and local child support agency in establishing the paternity of a child of the applicant or recipient born out of wedlock with respect to whom aid is claimed, and in establishing, modifying, or enforcing a support order with respect to a child of the individual for whom aid is requested or obtained.

The bill would exempt from these provisions an assistance unit that excludes any adults pursuant to specified provisions of law, including a provision that makes an individual ineligible for CalWORKs aid if the individual has been convicted in state or federal court after December 31, 1997.

(14) Under existing law, with certain exceptions, an applicant or recipient, as a condition of eligibility for aid under the CalWORKs program, is required to participate in welfare-to-work activities for a specified number of hours each week.

The bill would modify the number of welfare-to-work participation hours to conform to certain federal requirements.

(15) Existing law requires the State Department of Social Services to administer a voluntary Temporary Assistance Program (TAP) to provide cash assistance and other benefits to specified current and future CalWORKs recipients who meet the exemption criteria for participation in welfare-to-work activities and are not single parents who have a child under one year of age. Existing law requires the TAP to commence no later than October 1, 2014.

This bill would delay the commencement date of the TAP until October 1, 2016.

(16) Existing law establishes maximum aid grant amounts to be provided under the CalWORKs program, subject to specified adjustments. Existing law increases the maximum aid payments in effect on July 1, 2012, by 5% commencing March 1, 2014.

This bill would increase aid payments by 5% as of April 1, 2015.

(17) Under existing law, after a family has used all available liquid resources in excess of \$100, the family is entitled to receive a CalWORKs allowance for nonrecurring special needs, including homeless assistance.

This bill would specify that a recipient of CalWORKs benefits is eligible to receive specified housing supports, including financial assistance and housing stabilization and relocation, if the county determines that the recipient's family is experiencing homelessness or housing instability that would be a barrier to self-sufficiency or child well-being. The bill would require the State Department of Social Services, in consultation with the County Welfare Directors Association of California, to, among other things, develop criteria by which counties may opt to participate in providing housing supports to eligible recipients of CalWORKs benefits. The bill would include a statement of legislative findings and declarations.

(18) Under existing law, with certain exceptions, every individual, as a condition of eligibility for aid under the CalWORKs program, is required to participate in welfare-to-work activities. Existing law authorizes recipients to participate in family stabilization if the county determines that his or her family is experiencing an identified situation or crisis that is destabilizing the family and would interfere with participation in welfare-to-work activities and services.

This bill would authorize funds allocated for family stabilization to be used to provide housing and other needed services to a family during any month that a family is participating in family stabilization. The bill would state the intent of the legislature that family stabilization is a voluntary component intended to provide needed services and constructive interventions for parents and to assist in barrier removal for families facing very difficult needs.

(19) Existing federal law provides for the Supplemental Nutrition Assistance Program (SNAP), known in California as CalFresh, under which supplemental nutrition assistance benefits allocated to the state by the federal government are distributed to eligible individuals by each county.

Existing law requires the Department of Community Services and Development to receive and administer the federal Low-Income Home Energy Assistance Program (LIHEAP) block grant. Under existing law, to the extent permitted by federal law, the State Department of Social Services, in conjunction with the Department of Community Services and Development, is required to design, implement, and maintain a utility assistance initiative to provide applicants and recipients of CalFresh benefits a nominal LIHEAP service benefit, as specified, out of the federal LIHEAP block grant.

This bill would repeal those provisions and instead, effective July 1, 2014, create the State Utility Assistance Subsidy (SUAS), a state-funded energy assistance program. The bill would require the Department of Community Services and Development to delegate authority over the program to the State Department of Social Services. The bill would require the State Department of Social Services, among other things, in designing, implementing, and maintaining the SUAS program, to provide households that do not currently qualify for, nor receive, a standard utility allowance with a SUAS benefit, as specified, if the household would become eligible for CalFresh benefits or would receive increased benefits if the standard utility allowance was provided. The bill would condition the implementation of these provisions on an appropriation of funds by the Legislature in the annual Budget Act or related legislation. To the extent that the bill would increase the administrative duties of county welfare departments, the bill would impose a state-mandated local program.

(20) Existing law requires the State Department of Social Services, to the extent permitted by federal law, to design and implement a program of categorical eligibility for the purpose of establishing the gross income limit for the federal Temporary Assistance for Needy Families and state maintenance of effort funded service that confers categorical eligibility for those needy households and that includes a member who receives, or is eligible to receive, medical assistance under the Medi-Cal program.

This bill would, effective July 1, 2014, delete those provisions.

(21) Existing law requires each county to pay 30% of the nonfederal share of costs of administering the CalFresh program. Existing law also requires counties to expend an amount for programs that provide services to needy families that, when combined with the funds expended above for the administration of the CalFresh program, equals or exceeds the amount spent by the county for corresponding activities during the 1996–97 fiscal year. Existing law provides that any county that equals or exceeds the amount spent by the county for corresponding activities during the 1996–97 fiscal year entirely through expenditures for the administration of the CalFresh program in the 2010–11, 2011–12, 2012–13, and 2013–14 fiscal years shall receive the full General Fund allocation for the administration of the CalFresh program without paying the county’s share of the nonfederal costs for the amount above the 1996–97 expenditure requirement.

This bill would extend counties' eligibility to receive the full allocation for CalFresh administration under the above circumstances to the 2014–15 fiscal year. The bill would also reduce the amount of the waiver throughout subsequent fiscal years, as specified, and would eliminate the waiver by the 2018–19 fiscal year.

(22) Existing law requires the State Department of Social Services to annually report to the appropriate fiscal and policy committees of the Legislature and to post on its Internet Web site a summary of outcome and expenditure data that allows for monitoring the changes of the 2011 realignment of child welfare services, foster care, adoptions, and adult protective services programs.

This bill would require the report to contain specified information, including the child welfare services social worker caseloads per county.

(23) Existing law establishes the State Department of Social Services and sets forth its duties and responsibilities regarding ensuring that the needs of foster children are met by local child welfare agencies and foster care providers. Existing law declares the findings of the Legislature that there is a need to develop programs to provide the kinds of innovative strategies and services that will ameliorate, reduce, and ultimately eliminate the trauma of child sexual abuse.

This bill would establish the Commercially Sexually Exploited Children Program to be administered by the State Department of Social Services in order to adequately serve children who have been sexually exploited, and would require the department, in consultation with the County Welfare Directors Association of California, to develop an allocation methodology to distribute funding for the program. The bill would authorize the use of these funds by counties electing to participate in the program for certain prevention and intervention activities and services to children who are victims, or at risk of becoming victims, of commercial sexual exploitation. The bill would require the department to contract to provide training for county children's services workers to identify, intervene, and provide case management services to children who are victims of commercial sexual exploitation, and the training of foster caregivers for the prevention and identification of potential victims, as specified. The bill would also require the department to ensure that the Child Welfare Services/Case Management System is capable of collecting data concerning children who are commercially sexually exploited, as specified. The bill would require the department, no later than April 1, 2017, to provide to the Legislature information regarding the implementation of the program.

This bill would require each county electing to receive funds pursuant to the provisions described above to develop an interagency protocol to be utilized in serving sexually exploited children who have been adjudged to be a dependent child of the juvenile court. The bill would require the county interagency protocol to be developed by a team led by a representative of the county human services department and to include representatives from specified county agencies and the juvenile court.

This bill would make these provisions operative on January 1, 2015.

(24) Existing law establishes the jurisdiction of the juvenile court, which may adjudge certain children to be dependents of the court under certain circumstances, including when the child is abused, a parent or guardian fails to adequately supervise or protect the child, as specified, or a parent or guardian fails to provide the child with adequate food, clothing, shelter, or medical treatment.

This bill would make a legislative finding that declares that a child is within the jurisdiction of the juvenile court and may become a dependent child of the court if the child is a victim of sexual trafficking, or receives food or shelter in exchange for, or is paid to perform, specified sexual acts, as a result of the failure or inability of his or her parent or guardian to protect the child, and would declare that this finding is declaratory of existing law.

(25) Existing law, the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, provides for payments to group home providers at a per child per month rate, and in accordance with prescribed rate classification levels, for the care and supervision of the AFDC-FC child placed with the provider.

This bill would specify that nothing precludes a county from providing a supplemental rate to serve commercially exploited foster children, as specified, and would provide that, to the extent federal financial participation is available, these federal funds should be utilized.

(26) Existing law establishes the Aid to Families with Dependent Children-Foster Care (AFDC-FC) program, under which counties provide payments to foster care providers on behalf of qualified children in foster care. In order to be eligible for AFDC-FC, existing law requires a child or nonminor dependent to be placed in a specified placement, including, among others, the approved home of a relative, provided the child is otherwise eligible for federal financial participation in the AFDC-FC payment. Existing law requires foster care providers be paid

a per child per month rate, as specified, in return for the care and supervision of an AFDC-FC child placed with them.

This bill would establish the Approved Relative Caregiver Funding Option Program and would require counties who opt to participate in the program to, effective January 1, 2015, pay an approved relative caregiver a per child per month rate in return for the care and supervision of an AFDC-FC ineligible child placed with the relative caregiver that is equal to the basic rate paid to foster care providers for an AFDC-FC child if the county has notified the department of its decision to participate in the program, as specified, and the related child placed in the home meets certain requirements, including that the child resides in the state.

The bill would require a participating county to affirmatively indicate that the county understands and agrees to specified conditions, including that the county will be responsible to pay any additional costs needed to make all payments to the relative caregivers if state and federal funds are insufficient. If a participating county decides to opt out of the program, the bill requires the county to provide at least 120 days' prior written notice of that decision to the department and to provide at least 90 days' prior written notice to the approved relative caregiver or caregivers informing them that his or her per child per month payment will be reduced, and the date that the reduction will occur.

The bill would specify the funding for the program, including the use of state General Fund resources that do not count towards the state's maintenance of effort requirements for the federal Temporary Assistance for Needy Families (TANF) block grant. The bill would appropriate the sum of \$30,000,000 from the General Fund for the 2015 calendar year and for each calendar year thereafter, as specified, for these purposes. If this appropriation is insufficient to fully fund the base caseload of approved relative caregivers, as specified, the bill would also provide for the appropriation of additional funds necessary to fully fund that base caseload, and would require the adjusted amount for the calendar year appropriation, beginning with the 2016 calendar year, to be adjusted by the California Necessities Index for each subsequent year.

(27) Existing law, the federal Fair Labor Standards Act requires overtime pay for domestic services employees, but provides an exemption for live-in domestic service employees and companionship services provided to specified persons. Effective January 1, 2015, the act prohibits 3rd-party employers from claiming those exemptions and

narrows the duties that fall within companionship services to exclude general domestic services and medically related services.

Existing law establishes the In-Home Supportive Services (IHSS) program, administered by the State Department of Social Services and counties, under which qualified aged, blind, and disabled persons are provided with services in order to permit them to remain in their own homes and avoid institutionalization. Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law authorizes certain Medi-Cal recipients to receive waiver personal care services, as defined, in order to allow the recipients to remain in their own homes.

This bill would require that in-home supportive services and waiver personal care services be performed by providers within a workweek that does not exceed 66 hours per week, as reduced by a specified net percentage. The bill would require a recipient of in-home supportive services to employ an additional provider or providers, as needed, to ensure his or her authorized services are provided and would require the State Department of Health Care Services to work with recipients of waiver personal care services to engage additional providers, as necessary. The bill would authorize a recipient to authorize a provider to work hours in excess of the recipient's weekly authorized hours without notification of the county welfare department if certain conditions are met. The bill would enact other related provisions and would provide that these provisions become operative on the date specified federal regulatory amendments are deemed effective. This bill would authorize, for three-months following the effective date of those provisions, that timesheets submitted by providers be paid in excess of the limitations, so long as the number of hours worked by the provider within a given month do not exceed the authorized hours of the recipient or recipients served by the provider.

Existing law requires a county welfare department to assess each recipient's continuing need for in-home supportive services at varying intervals as necessary, but at least once every 12 months.

This bill would require that the results of the assessment of monthly need for hours of in-home supportive services be divided by 4.33 to establish a recipient's weekly authorized number of hours of in-home supportive services, as specified. The bill would require that recipients be timely informed of their total monthly and weekly authorized hours

and would provide that the weekly authorization of services be used solely for purposes of ensuring compliance with the federal Fair Labor Standards Act.

The bill would require the State Department of Social Services to oversee a study of the provisions in this bill, as specified, and would require that information collected for the study periodically be made available to stakeholders. The bill would require the State Department of Social Services to submit a report to the Legislature upon completion of the study.

By imposing new duties on counties administering the IHSS program, the bill would impose a state-mandated local program

This bill would require that specified amounts appropriated in the Budget Act of 2014 be made available for other purposes within the IHSS program if federal implementation of certain regulations by the federal Department of Labor are fully or partially postponed beyond January 1, 2015, as specified.

(28) The bill would authorize the State Department of Social Services to implement specified provisions of the bill through all-county letters or similar instructions and would require the department to adopt emergency regulations implementing these provisions no later than January 1, 2016.

(29) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(30) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2014.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 17415 of the Family Code is amended to*
2 *read:*

3 17415. (a) It shall be the duty of the county welfare department
4 to refer all cases in which a parent is absent from the home, or in
5 which the parents are unmarried and parentage has not been
6 established by the completion and filing of a voluntary declaration
7 of paternity pursuant to Section 7573 or a court of competent
8 jurisdiction, to the local child support agency immediately at the
9 time the application for public assistance, including Medi-Cal
10 benefits, or certificate of eligibility, is signed by the applicant or
11 recipient, except as provided in Section 17552 ~~of this code~~ and
12 ~~Section~~ *Sections 11477 and 11477.04* of the Welfare and
13 Institutions Code. If an applicant is found to be ineligible, the
14 applicant shall be notified in writing that the referral of the case
15 to the local child support agency may be terminated at the
16 applicant's request. The county welfare department shall cooperate
17 with the local child support agency and shall make available all
18 pertinent information ~~as provided in~~ *pursuant to* Section 17505.

19 (b) Upon referral from the county welfare department, the local
20 child support agency shall investigate the question of nonsupport
21 or paternity and shall take all steps necessary to obtain child
22 support for the needy child, enforce spousal support as part of the
23 state plan under Section 17604, and determine paternity in the case
24 of a child born out of wedlock. Upon the advice of the county
25 welfare department that a child is being considered for adoption,
26 the local child support agency shall delay the investigation and
27 other actions with respect to the case until advised that the adoption
28 is no longer under consideration. The granting of public assistance
29 or Medi-Cal benefits to an applicant shall not be delayed or
30 contingent upon investigation by the local child support agency.

31 (c) In cases where Medi-Cal benefits are the only assistance
32 provided, the local child support agency shall provide child and
33 spousal support services unless the recipient of the services notifies
34 the local child support agency that only services related to securing
35 health insurance benefits are requested.

36 (d) ~~Where~~ *Whenever* a court order has been obtained, any
37 contractual agreement for support between the local child support
38 agency or the county welfare department and the noncustodial

1 parent shall be deemed null and void to the extent that it is not
2 consistent with the court order.

3 (e) Whenever a family ~~which~~ *that* has been receiving public
4 assistance, including Medi-Cal, ceases to receive assistance,
5 including Medi-Cal, the local child support agency shall, to the
6 extent required by federal regulations, continue to enforce support
7 payments from the noncustodial parent until the individual on
8 whose behalf the enforcement efforts are made sends written notice
9 to the local child support agency requesting that enforcement
10 services be discontinued.

11 (f) The local child support agency shall, ~~where~~ *when* appropriate,
12 utilize reciprocal arrangements adopted with other states in securing
13 support from an absent parent. In individual cases where utilization
14 of reciprocal arrangements has proven ineffective, the local child
15 support agency may forward to the Attorney General a request to
16 utilize federal courts in order to obtain or enforce orders for child
17 or spousal support. If reasonable efforts to collect amounts assigned
18 pursuant to Section 11477 of the Welfare and Institutions Code
19 have failed, the local child support agency may request that the
20 case be forwarded to the *United States* Treasury Department for
21 collection in accordance with federal regulations. The Attorney
22 General, ~~where~~ *when* appropriate, shall forward these requests to
23 the Secretary of Health and Human Services, or a designated
24 representative.

25 *SEC. 2. Section 1506.5 of the Health and Safety Code is*
26 *amended to read:*

27 1506.5. (a) Foster family agencies shall not use foster family
28 homes licensed by a county without the approval of the licensing
29 county. When approval is granted, a written agreement between
30 the foster family agency and the county shall specify the nature of
31 administrative control and case management responsibility and
32 the nature and number of the children to be served in the home.

33 (b) Before a foster family agency may use a licensed foster
34 family home it shall review and, with the exception of a new
35 fingerprint clearance, qualify the home in accordance with Section
36 1506.

37 (c) When approval is given, and for the duration of the
38 agreement permitting the foster family agency use of its licensed
39 foster family home, no child shall be placed in that home except
40 through the foster family agency.

1 (d) Nothing in this section shall transfer or eliminate the
2 responsibility of the placing agency for the care, custody, or control
3 of the child. Nothing in this section shall relieve a foster family
4 agency of its responsibilities for or on behalf of a child placed with
5 it.

6 (e) (1) If an application to a foster family agency for a certificate
7 of approval indicates, or the department determines during the
8 application review process, that the applicant previously was issued
9 a license under this chapter or under Chapter 1 (commencing with
10 Section 1200), Chapter 2 (commencing with Section 1250), Chapter
11 3.01 (commencing with Section 1568.01), Chapter 3.2
12 (commencing with Section 1569), Chapter 3.4 (commencing with
13 Section 1596.70), Chapter 3.5 (commencing with Section 1596.90),
14 or Chapter 3.6 (commencing with Section 1597.30) and the prior
15 license was revoked within the preceding two years, the foster
16 family agency shall cease any further review of the application
17 until two years have elapsed from the date of the revocation.

18 (2) If an application to a foster family agency for a certificate
19 of approval indicates, or the department determines during the
20 application review process, that the applicant previously was issued
21 a certificate of approval by a foster family agency that was revoked
22 by the department pursuant to subdivision (b) of Section 1534
23 within the preceding two years, the foster family agency shall cease
24 any further review of the application until two years have elapsed
25 from the date of the revocation.

26 (3) If an application to a foster family agency for a certificate
27 of approval indicates, or the department determines during the
28 application review process, that the applicant was excluded from
29 a facility licensed by the department *or from a certified family*
30 *home* pursuant to Section 1558, 1568.092, 1569.58, or 1596.8897,
31 the foster family agency shall cease any further review of the
32 application unless the excluded person has been reinstated pursuant
33 to Section 11522 of the Government Code by the department.

34 (4) The cessation of review shall not constitute a denial of the
35 application for purposes of subdivision (b) of Section 1534 or any
36 other law.

37 (f) (1) If an application to a foster family agency for a certificate
38 of approval indicates, or the department determines during the
39 application review process, that the applicant had previously
40 applied for a license under any of the chapters listed in paragraph

1 (1) of subdivision (e) and the application was denied within the
2 last year, the foster family agency shall cease further review of the
3 application as follows:

4 (A) In cases where the applicant petitioned for a hearing, the
5 foster family agency shall cease further review of the application
6 until one year has elapsed from the effective date of the decision
7 and order of the department upholding a denial.

8 (B) In cases where the department informed the applicant of his
9 or her right to petition for a hearing and the applicant did not
10 petition for a hearing, the foster family agency shall cease further
11 review of the application until one year has elapsed from the date
12 of the notification of the denial and the right to petition for a
13 hearing.

14 (2) The foster family agency may continue to review the
15 application if the department has determined that the reasons for
16 the denial of the application were due to circumstances and a
17 condition that either have been corrected or are no longer in
18 existence.

19 (3) The cessation of review shall not constitute a denial of the
20 application for purposes of subdivision (b) of Section 1534 or any
21 other law.

22 (g) (1) If an application to a foster family agency for a
23 certificate of approval indicates, or the department determines
24 during the application review process, that the applicant had
25 previously applied for a certificate of approval with a foster family
26 agency and the department ordered the foster family agency to
27 deny the application pursuant to subdivision (b) of Section 1534,
28 the foster family agency shall cease further review of the
29 application as follows:

30 (A) In cases where the applicant petitioned for a hearing, the
31 foster family agency shall cease further review of the application
32 until one year has elapsed from the effective date of the decision
33 and order of the department upholding a denial.

34 (B) In cases where the department informed the applicant of his
35 or her right to petition for a hearing and the applicant did not
36 petition for a hearing, the foster family agency shall cease further
37 review of the application until one year has elapsed from the date
38 of the notification of the denial and the right to petition for a
39 hearing.

1 (2) The foster family agency may continue to review the
2 application if the department has determined that the reasons for
3 the denial of the application were due to circumstances and
4 conditions that either have been corrected or are no longer in
5 existence.

6 (3) The cessation of review shall not constitute a denial of the
7 application for purposes of subdivision (b) of Section 1534 or any
8 other law.

9 *SEC. 3. Section 1520.3 of the Health and Safety Code is*
10 *amended to read:*

11 1520.3. (a) (1) If an application for a license or special permit
12 indicates, or the department determines during the application
13 review process, that the applicant previously was issued a license
14 under this chapter or under Chapter 1 (commencing with Section
15 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01
16 (commencing with Section 1568.01), Chapter 3.3 (commencing
17 with Section 1569), Chapter 3.4 (commencing with Section
18 1596.70), Chapter 3.5 (commencing with Section 1596.90), or
19 Chapter 3.6 (commencing with Section 1597.30) and the prior
20 license was revoked within the preceding two years, the department
21 shall cease any further review of the application until two years
22 shall have elapsed from the date of the revocation. The cessation
23 of review shall not constitute a denial of the application for
24 purposes of Section 1526 or any other provision of law.

25 (2) If an application for a license or special permit indicates, or
26 the department determines during the application review process,
27 that the applicant previously was issued a certificate of approval
28 by a foster family agency that was revoked by the department
29 pursuant to subdivision (b) of Section 1534 within the preceding
30 two years, the department shall cease any further review of the
31 application until two years shall have elapsed from the date of the
32 revocation.

33 (3) If an application for a license or special permit indicates, or
34 the department determines during the application review process,
35 that the applicant was excluded from a facility licensed by the
36 department *or from a certified family home* pursuant to Sections
37 1558, 1568.092, 1569.58, or 1596.8897, the department shall cease
38 any further review of the application unless the excluded individual
39 has been reinstated pursuant to Section 11522 of the Government
40 Code by the department.

(b) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall cease further review of the application as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions which either have been corrected or are no longer in existence.

(c) If an application for a license or special permit indicates, or the department determines during the application review process, that the applicant had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall cease further review of the application as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall cease further review of the application until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall cease further review of the application until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(3) The department may continue to review the application if it has determined that the reasons for the denial of the application were due to circumstances and conditions that either have been corrected or are no longer in existence.

1 (d) The cessation of review shall not constitute a denial of the
2 application for purposes of Section 1526 or any other law.

3 *SEC. 4. Section 1522 of the Health and Safety Code is amended*
4 *to read:*

5 1522. The Legislature recognizes the need to generate timely
6 and accurate positive fingerprint identification of applicants as a
7 condition of issuing licenses, permits, or certificates of approval
8 for persons to operate or provide direct care services in a
9 community care facility, foster family home, or a certified family
10 home of a licensed foster family agency. Therefore, the Legislature
11 supports the use of the fingerprint live-scan technology, as
12 identified in the long-range plan of the Department of Justice for
13 fully automating the processing of fingerprints and other data by
14 the year 1999, otherwise known as the California Crime
15 Information Intelligence System (CAL-CII), to be used for
16 applicant fingerprints. It is the intent of the Legislature in enacting
17 this section to require the fingerprints of those individuals whose
18 contact with community care clients may pose a risk to the clients'
19 health and safety. An individual shall be required to obtain either
20 a criminal record clearance or a criminal record exemption from
21 the State Department of Social Services before his or her initial
22 presence in a community care ~~facility~~. *facility or certified family*
23 *home.*

24 (a) (1) Before issuing a license or special permit to any person
25 or persons to operate or manage a community care facility, the
26 State Department of Social Services shall secure from an
27 appropriate law enforcement agency a criminal record to determine
28 whether the applicant or any other person specified in subdivision
29 (b) has ever been convicted of a crime other than a minor traffic
30 violation or arrested for any crime specified in Section 290 of the
31 Penal Code, for violating Section 245 or 273.5, of the Penal Code,
32 subdivision (b) of Section 273a of the Penal Code, or, prior to
33 January 1, 1994, paragraph (2) of Section 273a of the Penal Code,
34 or for any crime for which the department cannot grant an
35 exemption if the person was convicted and the person has not been
36 exonerated.

37 (2) The criminal history information shall include the full
38 criminal record, if any, of those persons, and subsequent arrest
39 information pursuant to Section 11105.2 of the Penal Code.

(3) Except during the 2003–04 to the 2014–15 fiscal years, inclusive, neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section.

(4) The following shall apply to the criminal record information:

(A) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(B) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services may cease processing the application until the conclusion of the trial.

(C) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(D) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (1) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (g).

(E) An applicant and any other person specified in subdivision (b) shall submit fingerprint images and related information to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and all other persons described in subdivision (b) meet all of the conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal offender record information search response for the applicant or any of the persons described in subdivision (b), the department may issue a license if the applicant and each person described in subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction, as

prescribed in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, *or the issuance of a certificate of approval of a certified family home by a foster family agency,* the department determines that the licensee or any other person specified in subdivision (b) has a criminal record, ~~the license department may be revoked~~ *revoke the license, or require a foster family agency to revoke the certificate of approval,* pursuant to Section 1550. The department may also suspend the license *or require a foster family agency to suspend the certificate of approval* pending an administrative hearing pursuant to Section 1550.5.

(F) The State Department of Social Services shall develop procedures to provide the individual's state and federal criminal history information with the written notification of his or her exemption denial or revocation based on the criminal record. Receipt of the criminal history information shall be optional on the part of the individual, as set forth in the agency's procedures. The procedure shall protect the confidentiality and privacy of the individual's record, and the criminal history information shall not be made available to the employer.

(G) Notwithstanding any other law, the department is authorized to provide an individual with a copy of his or her state or federal level criminal offender record information search response as provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

(b) (1) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(A) Adults responsible for administration or direct supervision of staff.

(B) Any person, other than a client, residing in the ~~facility.~~ *facility or certified family home.*

(C) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene. Any nurse assistant or

1 home health aide meeting the requirements of Section 1338.5 or
2 1736.6, respectively, who is not employed, retained, or contracted
3 by the licensee, and who has been certified or recertified on or
4 after July 1, 1998, shall be deemed to meet the criminal record
5 clearance requirements of this section. A certified nurse assistant
6 and certified home health aide who will be providing client
7 assistance and who falls under this exemption shall provide one
8 copy of his or her current certification, prior to providing care, to
9 the community care facility. The facility shall maintain the copy
10 of the certification on file as long as care is being provided by the
11 certified nurse assistant or certified home health aide at the ~~facility~~.
12 *facility or certified family home*. Nothing in this paragraph restricts
13 the right of the department to exclude a certified nurse assistant
14 or certified home health aide from a licensed community care
15 facility *or certified family home* pursuant to Section 1558.

16 (D) Any staff person, volunteer, or employee who has contact
17 with the clients.

18 (E) If the applicant is a firm, partnership, association, or
19 corporation, the chief executive officer or other person serving in
20 like capacity.

21 (F) Additional officers of the governing body of the applicant,
22 or other persons with a financial interest in the applicant, as
23 determined necessary by the department by regulation. The criteria
24 used in the development of these regulations shall be based on the
25 person's capability to exercise substantial influence over the
26 operation of the facility.

27 (2) The following persons are exempt from the requirements
28 applicable under paragraph (1):

29 (A) A medical professional as defined in department regulations
30 who holds a valid license or certification from the person's
31 governing California medical care regulatory entity and who is
32 not employed, retained, or contracted by the licensee if all of the
33 following apply:

34 (i) The criminal record of the person has been cleared as a
35 condition of licensure or certification by the person's governing
36 California medical care regulatory entity.

37 (ii) The person is providing time-limited specialized clinical
38 care or services.

39 (iii) The person is providing care or services within the person's
40 scope of practice.

1 (iv) The person is not a community care facility licensee or an
2 employee of the facility.

3 (B) A third-party repair person or similar retained contractor if
4 all of the following apply:

5 (i) The person is hired for a defined, time-limited job.

6 (ii) The person is not left alone with clients.

7 (iii) When clients are present in the room in which the repair
8 person or contractor is working, a staff person who has a criminal
9 record clearance or exemption is also present.

10 (C) Employees of a licensed home health agency and other
11 members of licensed hospice interdisciplinary teams who have a
12 contract with a client or resident of the facility and are in the
13 facility at the request of that client or resident's legal
14 decisionmaker. The exemption does not apply to a person who is
15 a community care facility licensee or an employee of the facility.

16 (D) Clergy and other spiritual caregivers who are performing
17 services in common areas of the community care facility or who
18 are advising an individual client at the request of, or with the
19 permission of, the client or legal decisionmaker, are exempt from
20 fingerprint and criminal background check requirements imposed
21 by community care licensing. This exemption does not apply to a
22 person who is a community care licensee or employee of the
23 facility.

24 (E) Members of fraternal, service, or similar organizations who
25 conduct group activities for clients if all of the following apply:

26 (i) Members are not left alone with clients.

27 (ii) Members do not transport clients off the facility premises.

28 (iii) The same organization does not conduct group activities
29 for clients more often than defined by the department's regulations.

30 (3) In addition to the exemptions in paragraph (2), the following
31 persons in foster family homes, certified family homes, and small
32 family homes are exempt from the requirements applicable under
33 paragraph (1):

34 (A) Adult friends and family of the licensed or certified foster
35 parent, who come into the home to visit for a length of time no
36 longer than defined by the department in regulations, provided
37 that the adult friends and family of the licensee *or certified parent*
38 are not left alone with the foster children. However, the ~~licensee~~;
39 *licensee or certified parent*, acting as a reasonable and prudent
40 parent, as defined in paragraph (2) of subdivision (a) of Section

1 362.04 of the Welfare and Institutions Code, may allow his or her
2 adult friends and family to provide short-term care to the foster
3 child and act as an appropriate occasional short-term babysitter
4 for the child.

5 (B) Parents of a foster child's friend when the foster child is
6 visiting the friend's home and the friend, licensed or certified foster
7 parent, or both are also present. However, ~~the licensee;~~ *licensee*
8 *or certified parent*, acting as a reasonable and prudent parent, may
9 allow the parent of the foster child's friend to act as an appropriate
10 short-term babysitter for the child without the friend being present.

11 (C) Individuals who are engaged by any licensed or certified
12 foster parent to provide short-term care to the child for periods not
13 to exceed 24 hours. Caregivers shall use a reasonable and prudent
14 parent standard in selecting appropriate individuals to act as
15 appropriate occasional short-term babysitters.

16 (4) In addition to the exemptions specified in paragraph (2), the
17 following persons in adult day care and adult day support centers
18 are exempt from the requirements applicable under paragraph (1):

19 (A) Unless contraindicated by the client's individualized
20 program plan (IPP) or needs and service plan, a spouse, significant
21 other, relative, or close friend of a client, or an attendant or a
22 facilitator for a client with a developmental disability if the
23 attendant or facilitator is not employed, retained, or contracted by
24 the licensee. This exemption applies only if the person is visiting
25 the client or providing direct care and supervision to the client.

26 (B) A volunteer if all of the following applies:

27 (i) The volunteer is supervised by the licensee or a facility
28 employee with a criminal record clearance or exemption.

29 (ii) The volunteer is never left alone with clients.

30 (iii) The volunteer does not provide any client assistance with
31 dressing, grooming, bathing, or personal hygiene other than
32 washing of hands.

33 (5) (A) In addition to the exemptions specified in paragraph
34 (2), the following persons in adult residential and social
35 rehabilitation facilities, unless contraindicated by the client's
36 individualized program plan (IPP) or needs and services plan, are
37 exempt from the requirements applicable under paragraph (1): a
38 spouse, significant other, relative, or close friend of a client, or an
39 attendant or a facilitator for a client with a developmental disability
40 if the attendant or facilitator is not employed, retained, or

1 contracted by the licensee. This exemption applies only if the
2 person is visiting the client or providing direct care and supervision
3 to that client.

4 (B) Nothing in this subdivision shall prevent a licensee from
5 requiring a criminal record clearance of any individual exempt
6 from the requirements of this section, provided that the individual
7 has client contact.

8 (6) Any person similar to those described in this subdivision,
9 as defined by the department in regulations.

10 (c) (1) Subsequent to initial licensure, a person specified in
11 subdivision (b) who is not exempted from fingerprinting shall
12 obtain either a criminal record clearance or an exemption from
13 disqualification pursuant to subdivision (g) from the State
14 Department of Social Services prior to employment, residence, or
15 initial presence in the facility. A person specified in subdivision
16 (b) who is not exempt from fingerprinting shall be fingerprinted
17 and shall sign a declaration under penalty of perjury regarding any
18 prior criminal convictions. The licensee shall submit fingerprint
19 images and related information to the Department of Justice and
20 the Federal Bureau of Investigation, through the Department of
21 Justice, for a state and federal level criminal offender record
22 information search, or comply with paragraph (1) of subdivision
23 (h). These fingerprint images and related information shall be sent
24 by electronic transmission in a manner approved by the State
25 Department of Social Services and the Department of Justice for
26 the purpose of obtaining a permanent set of fingerprints, and shall
27 be submitted to the Department of Justice by the licensee. A
28 licensee's failure to prohibit the employment, residence, or initial
29 presence of a person specified in subdivision (b) who is not exempt
30 from fingerprinting and who has not received either a criminal
31 record clearance or an exemption from disqualification pursuant
32 to subdivision (g) or to comply with paragraph (1) of subdivision
33 (h), as required in this section, shall result in the citation of a
34 deficiency and the immediate assessment of civil penalties in the
35 amount of one hundred dollars (\$100) per violation per day for a
36 maximum of five days, unless the violation is a second or
37 subsequent violation within a 12-month period in which case the
38 civil penalties shall be in the amount of one hundred dollars (\$100)
39 per violation for a maximum of 30 days, and shall be grounds for
40 disciplining the licensee pursuant to Section 1550. The department

1 may assess civil penalties for continued violations as permitted by
2 Section 1548. The fingerprint images and related information shall
3 then be submitted to the Department of Justice for processing.
4 Upon request of the licensee, who shall enclose a self-addressed
5 stamped postcard for this purpose, the Department of Justice shall
6 verify receipt of the fingerprints.

7 (2) Within 14 calendar days of the receipt of the fingerprint
8 images, the Department of Justice shall notify the State Department
9 of Social Services of the criminal record information, as provided
10 for in subdivision (a). If no criminal record information has been
11 recorded, the Department of Justice shall provide the licensee and
12 the State Department of Social Services with a statement of that
13 fact within 14 calendar days of receipt of the fingerprint images.
14 Documentation of the individual's clearance or exemption from
15 disqualification shall be maintained by the licensee and be available
16 for inspection. If new fingerprint images are required for
17 processing, the Department of Justice shall, within 14 calendar
18 days from the date of receipt of the fingerprints, notify the licensee
19 that the fingerprints were illegible, the Department of Justice shall
20 notify the State Department of Social Services, as required by
21 Section 1522.04, and shall also notify the licensee by mail, within
22 14 days of electronic transmission of the fingerprints to the
23 Department of Justice, if the person has no criminal history
24 recorded. A violation of the regulations adopted pursuant to Section
25 1522.04 shall result in the citation of a deficiency and an immediate
26 assessment of civil penalties in the amount of one hundred dollars
27 (\$100) per violation per day for a maximum of five days, unless
28 the violation is a second or subsequent violation within a 12-month
29 period in which case the civil penalties shall be in the amount of
30 one hundred dollars (\$100) per violation for a maximum of 30
31 days, and shall be grounds for disciplining the licensee pursuant
32 to Section 1550. The department may assess civil penalties for
33 continued violations as permitted by Section 1548.

34 (3) Except for persons specified in subdivision (b) who are
35 exempt from fingerprinting, the licensee shall endeavor to ascertain
36 the previous employment history of persons required to be
37 fingerprinted. If it is determined by the State Department of Social
38 Services, on the basis of the fingerprint images and related
39 information submitted to the Department of Justice, that subsequent
40 to obtaining a criminal record clearance or exemption from

1 disqualification pursuant to subdivision (g), the person has been
2 convicted of, or is awaiting trial for, a sex offense against a minor,
3 or has been convicted for an offense specified in Section 243.4,
4 273a, 273d, 273g, or 368 of the Penal Code, or a felony, the State
5 Department of Social Services shall notify the licensee to act
6 immediately to terminate the person's employment, remove the
7 person from the community care facility, or bar the person from
8 entering the community care facility. The State Department of
9 Social Services may subsequently grant an exemption from
10 disqualification pursuant to subdivision (g). If the conviction or
11 arrest was for another crime, except a minor traffic violation, the
12 licensee shall, upon notification by the State Department of Social
13 Services, act immediately to either (A) terminate the person's
14 employment, remove the person from the community care facility,
15 or bar the person from entering the community care facility; or
16 (B) seek an exemption from disqualification pursuant to subdivision
17 (g). The State Department of Social Services shall determine if
18 the person shall be allowed to remain in the facility until a decision
19 on the exemption from disqualification is rendered. A licensee's
20 failure to comply with the department's prohibition of employment,
21 contact with clients, or presence in the facility as required by this
22 paragraph shall result in a citation of deficiency and an immediate
23 assessment of civil penalties in the amount of one hundred dollars
24 (\$100) per violation per day and shall be grounds for disciplining
25 the licensee pursuant to Section 1550.

26 (4) The department may issue an exemption from
27 disqualification on its own motion pursuant to subdivision (g) if
28 the person's criminal history indicates that the person is of good
29 character based on the age, seriousness, and frequency of the
30 conviction or convictions. The department, in consultation with
31 interested parties, shall develop regulations to establish the criteria
32 to grant an exemption from disqualification pursuant to this
33 paragraph.

34 (5) Concurrently with notifying the licensee pursuant to
35 paragraph (3), the department shall notify the affected individual
36 of his or her right to seek an exemption from disqualification
37 pursuant to subdivision (g). The individual may seek an exemption
38 from disqualification only if the licensee terminates the person's
39 employment or removes the person from the facility after receiving
40 notice from the department pursuant to paragraph (3).

(d) (1) Before issuing a license or certificate of approval to any person or persons to operate a foster family home or certified family home as described in Section 1506, the State Department of Social Services or other approving authority shall secure California and Federal Bureau of Investigation criminal history information to determine whether the applicant or any person specified in subdivision (b) who is not exempt from fingerprinting has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in subdivision (c) of Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. The State Department of Social Services or other approving authority shall not issue a license or certificate of approval to any foster family home or certified family home applicant who has not obtained both a California and Federal Bureau of Investigation criminal record clearance or exemption from disqualification pursuant to subdivision (g).

(2) The criminal history information shall include the full criminal record, if any, of those persons.

(3) Neither the Department of Justice nor the State Department of Social Services may charge a fee for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant.

(4) The following shall apply to the criminal record information:

(A) If the applicant or other persons specified in subdivision (b) who are not exempt from fingerprinting have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied.

(B) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) who is not exempt from fingerprinting is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services or other approving authority may cease processing the application until the conclusion of the trial.

1 (C) For purposes of this subdivision, a criminal record clearance
2 provided under Section 8712 of the Family Code may be used by
3 the department or other approving agency.

4 (D) To the same extent required for federal funding, an applicant
5 for a foster family home license or for certification as a family
6 home, and any other person specified in subdivision (b) who is
7 not exempt from fingerprinting, shall submit a set of fingerprint
8 images and related information to the Department of Justice and
9 the Federal Bureau of Investigation, through the Department of
10 Justice, for a state and federal level criminal offender record
11 information search, in addition to the criminal records search
12 required by subdivision (a).

13 (5) Any person specified in this subdivision shall, as a part of
14 the application, be fingerprinted and sign a declaration under
15 penalty of perjury regarding any prior criminal convictions or
16 arrests for any crime against a child, spousal or cohabitant abuse
17 or, any crime for which the department cannot grant an exemption
18 if the person was convicted and shall submit these fingerprints to
19 the licensing agency or other approving authority.

20 (6) (A) Subsequent to initial licensure or certification, a person
21 specified in subdivision (b) who is not exempt from fingerprinting
22 shall obtain both a California and Federal Bureau of Investigation
23 criminal record clearance, or an exemption from disqualification
24 pursuant to subdivision (g), prior to employment, residence, or
25 initial presence in the foster family or certified family home. A
26 foster family home licensee or foster family agency shall submit
27 fingerprint images and related information of persons specified in
28 subdivision (b) who are not exempt from fingerprinting to the
29 Department of Justice and the Federal Bureau of Investigation,
30 through the Department of Justice, for a state and federal level
31 criminal offender record information search, or to comply with
32 paragraph (1) of subdivision (h). A foster family home licensee's
33 or a foster family agency's failure to either prohibit the
34 employment, residence, or initial presence of a person specified
35 in subdivision (b) who is not exempt from fingerprinting and who
36 has not received either a criminal record clearance or an exemption
37 from disqualification pursuant to subdivision (g), or comply with
38 paragraph (1) of subdivision (h), as required in this section, shall
39 result in a citation of a deficiency, and the immediate civil penalties
40 of one hundred dollars (\$100) per violation per day for a maximum

1 of five days, unless the violation is a second or subsequent violation
2 within a 12-month period in which case the civil penalties shall
3 be in the amount of one hundred dollars (\$100) per violation for
4 a maximum of 30 days, and shall be grounds for disciplining the
5 licensee pursuant to Section 1550. A violation of the regulation
6 adopted pursuant to Section 1522.04 shall result in the citation of
7 a deficiency and an immediate assessment of civil penalties in the
8 amount of one hundred dollars (\$100) per violation per day for a
9 maximum of five days, unless the violation is a second or
10 subsequent violation within a 12-month period in which case the
11 civil penalties shall be in the amount of one hundred dollars (\$100)
12 per violation for a maximum of 30 days, and shall be grounds for
13 disciplining the foster family home licensee or the foster family
14 agency pursuant to Section 1550. The State Department of Social
15 Services may assess penalties for continued violations, as permitted
16 by Section 1548. The fingerprint images shall then be submitted
17 to the Department of Justice for processing.

18 (B) Upon request of the licensee, who shall enclose a
19 self-addressed envelope for this purpose, the Department of Justice
20 shall verify receipt of the fingerprints. Within five working days
21 of the receipt of the criminal record or information regarding
22 criminal convictions from the Department of Justice, the
23 department shall notify the applicant of any criminal arrests or
24 convictions. If no arrests or convictions are recorded, the
25 Department of Justice shall provide the foster family home licensee
26 or the foster family agency with a statement of that fact concurrent
27 with providing the information to the State Department of Social
28 Services.

29 (7) If the State Department of Social Services *or other approving*
30 *authority* finds that the applicant, or any other person specified in
31 subdivision (b) who is not exempt from fingerprinting, has been
32 convicted of a crime other than a minor traffic violation, the
33 application shall be denied, unless the director grants an exemption
34 from disqualification pursuant to subdivision (g).

35 (8) If the State Department of Social Services *or other approving*
36 *authority* finds after licensure or the granting of the certificate of
37 approval that the licensee, certified foster parent, or any other
38 person specified in subdivision (b) who is not exempt from
39 fingerprinting, has been convicted of a crime other than a minor
40 traffic violation, the license or certificate of approval may be

1 revoked by the department or the foster family agency, whichever
2 is applicable, unless the director grants an exemption from
3 disqualification pursuant to subdivision (g). A licensee's failure
4 to comply with the department's prohibition of employment,
5 contact with clients, or presence in the facility as required by
6 paragraph (3) of subdivision (c) shall be grounds for disciplining
7 the licensee pursuant to Section 1550.

8 (e) The State Department of Social Services shall not use a
9 record of arrest to deny, revoke, or terminate any application,
10 license, employment, or residence unless the department
11 investigates the incident and secures evidence, whether or not
12 related to the incident of arrest, that is admissible in an
13 administrative hearing to establish conduct by the person that may
14 pose a risk to the health and safety of any person who is or may
15 become a client. The State Department of Social Services is
16 authorized to obtain any arrest or conviction records or reports
17 from any law enforcement agency as necessary to the performance
18 of its duties to inspect, license, and investigate community care
19 facilities and individuals associated with a community care facility.

20 (f) (1) For purposes of this section or any other provision of
21 this chapter, a conviction means a plea or verdict of guilty or a
22 conviction following a plea of nolo contendere. Any action that
23 the State Department of Social Services is permitted to take
24 following the establishment of a conviction may be taken when
25 the time for appeal has elapsed, when the judgment of conviction
26 has been affirmed on appeal, or when an order granting probation
27 is made suspending the imposition of sentence, notwithstanding
28 a subsequent order pursuant to Sections 1203.4 and 1203.4a of the
29 Penal Code permitting the person to withdraw his or her plea of
30 guilty and to enter a plea of not guilty, or setting aside the verdict
31 of guilty, or dismissing the accusation, information, or indictment.
32 For purposes of this section or any other provision of this chapter,
33 the record of a conviction, or a copy thereof certified by the clerk
34 of the court or by a judge of the court in which the conviction
35 occurred, shall be conclusive evidence of the conviction. For
36 purposes of this section or any other provision of this chapter, the
37 arrest disposition report certified by the Department of Justice, or
38 documents admissible in a criminal action pursuant to Section
39 969b of the Penal Code, shall be prima facie evidence of the

1 conviction, notwithstanding any other law prohibiting the
2 admission of these documents in a civil or administrative action.

3 (2) For purposes of this section or any other provision of this
4 chapter, the department shall consider criminal convictions from
5 another state or federal court as if the criminal offense was
6 committed in this state.

7 (g) (1) After review of the record, the director may grant an
8 exemption from disqualification for a license or special permit as
9 specified in paragraph (4) of subdivision (a), or for a license,
10 special permit, or certificate of approval as specified in paragraphs
11 (4), (7), and (8) of subdivision (d), or for employment, residence,
12 or presence in a community care facility as specified in paragraphs
13 (3), (4), and (5) of subdivision (c), if the director has substantial
14 and convincing evidence to support a reasonable belief that the
15 applicant and the person convicted of the crime, if other than the
16 applicant, are of good character as to justify issuance of the license
17 or special permit or granting an exemption for purposes of
18 subdivision (c). Except as otherwise provided in this subdivision,
19 an exemption shall not be granted pursuant to this subdivision if
20 the conviction was for any of the following offenses:

21 (A) (i) An offense specified in Section 220, 243.4, or 264.1,
22 subdivision (a) of Section 273a or, prior to January 1, 1994,
23 paragraph (1) of Section 273a, Section 273d, 288, or 289,
24 subdivision (c) of Section 290, or Section 368 of the Penal Code,
25 or was a conviction of another crime against an individual specified
26 in subdivision (c) of Section 667.5 of the Penal Code.

27 (ii) Notwithstanding clause (i), the director may grant an
28 exemption regarding the conviction for an offense described in
29 paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5
30 of the Penal Code, if the employee or prospective employee has
31 been rehabilitated as provided in Section 4852.03 of the Penal
32 Code, has maintained the conduct required in Section 4852.05 of
33 the Penal Code for at least 10 years, and has the recommendation
34 of the district attorney representing the employee's county of
35 residence, or if the employee or prospective employee has received
36 a certificate of rehabilitation pursuant to Chapter 3.5 (commencing
37 with Section 4852.01) of Title 6 of Part 3 of the Penal Code. This
38 clause shall not apply to foster care providers, including relative
39 caregivers, nonrelated extended family members, or any other
40 person specified in subdivision (b), in those homes where the

1 individual has been convicted of an offense described in paragraph
2 (1) of subdivision (c) of Section 667.5 of the Penal Code.

3 (B) A felony offense specified in Section 729 of the Business
4 and Professions Code or Section 206 or 215, subdivision (a) of
5 Section 347, subdivision (b) of Section 417, or subdivision (a) of
6 Section 451 of the Penal Code.

7 (C) Under no circumstances shall an exemption be granted
8 pursuant to this subdivision to any foster care provider applicant
9 if that applicant, or any other person specified in subdivision (b)
10 in those homes, has a felony conviction for either of the following
11 offenses:

12 (i) A felony conviction for child abuse or neglect, spousal abuse,
13 crimes against a child, including child pornography, or for a crime
14 involving violence, including rape, sexual assault, or homicide,
15 but not including other physical assault and battery. For purposes
16 of this subparagraph, a crime involving violence means a violent
17 crime specified in clause (i) of subparagraph (A), or subparagraph
18 (B).

19 (ii) A felony conviction, within the last five years, for physical
20 assault, battery, or a drug- or alcohol-related offense.

21 (iii) This subparagraph shall not apply to licenses or approvals
22 wherein a caregiver was granted an exemption to a criminal
23 conviction described in clause (i) or (ii) prior to the enactment of
24 this subparagraph.

25 (iv) This subparagraph shall remain operative only to the extent
26 that compliance with its provisions is required by federal law as
27 a condition for receiving funding under Title IV-E of the federal
28 Social Security Act (42 U.S.C. Sec. 670 et seq.).

29 (2) The department shall not prohibit a person from being
30 employed or having contact with clients in a facility on the basis
31 of a denied criminal record exemption request or arrest information
32 unless the department complies with the requirements of Section
33 1558.

34 (h) (1) For purposes of compliance with this section, the
35 department may permit an individual to transfer a current criminal
36 record clearance, as defined in subdivision (a), from one facility
37 to another, as long as the criminal record clearance has been
38 processed through a state licensing district office, and is being
39 transferred to another facility licensed by a state licensing district
40 office. The request shall be in writing to the State Department of

1 Social Services, and shall include a copy of the person's driver's
2 license or valid identification card issued by the Department of
3 Motor Vehicles, or a valid photo identification issued by another
4 state or the United States government if the person is not a
5 California resident. Upon request of the licensee, who shall enclose
6 a self-addressed envelope for this purpose, the State Department
7 of Social Services shall verify whether the individual has a
8 clearance that can be transferred.

9 (2) The State Department of Social Services shall hold criminal
10 record clearances in its active files for a minimum of three years
11 after an employee is no longer employed at a licensed facility in
12 order for the criminal record clearance to be transferred.

13 (3) The following shall apply to a criminal record clearance or
14 exemption from the department or a county office with
15 department-delegated licensing authority:

16 (A) A county office with department-delegated licensing
17 authority may accept a clearance or exemption from the
18 department.

19 (B) The department may accept a clearance or exemption from
20 any county office with department-delegated licensing authority.

21 (C) A county office with department-delegated licensing
22 authority may accept a clearance or exemption from any other
23 county office with department-delegated licensing authority.

24 (4) With respect to notifications issued by the Department of
25 Justice pursuant to Section 11105.2 of the Penal Code concerning
26 an individual whose criminal record clearance was originally
27 processed by the department or a county office with
28 department-delegated licensing authority, all of the following shall
29 apply:

30 (A) The Department of Justice shall process a request from the
31 department or a county office with department-delegated licensing
32 authority to receive the notice only if all of the following conditions
33 are met:

34 (i) The request shall be submitted to the Department of Justice
35 by the agency to be substituted to receive the notification.

36 (ii) The request shall be for the same applicant type as the type
37 for which the original clearance was obtained.

38 (iii) The request shall contain all prescribed data elements and
39 format protocols pursuant to a written agreement between the
40 department and the Department of Justice.

1 (B) (i) On or before January 7, 2005, the department shall notify
2 the Department of Justice of all county offices that have
3 department-delegated licensing authority.

4 (ii) The department shall notify the Department of Justice within
5 15 calendar days of the date on which a new county office receives
6 department-delegated licensing authority or a county's delegated
7 licensing authority is rescinded.

8 (C) The Department of Justice shall charge the department, a
9 county office with department-delegated licensing authority, or a
10 county child welfare agency with criminal record clearance and
11 exemption authority, a fee for each time a request to substitute the
12 recipient agency is received for purposes of this paragraph. This
13 fee shall not exceed the cost of providing the service.

14 (5) (A) A county child welfare agency with authority to secure
15 clearances pursuant to Section 16504.5 of the Welfare and
16 Institutions Code and to grant exemptions pursuant to Section
17 361.4 of the Welfare and Institutions Code may accept a clearance
18 or exemption from another county with criminal record and
19 exemption authority pursuant to these sections.

20 (B) With respect to notifications issued by the Department of
21 Justice pursuant to Section 11105.2 of the Penal Code concerning
22 an individual whose criminal record clearance was originally
23 processed by a county child welfare agency with criminal record
24 clearance and exemption authority, the Department of Justice shall
25 process a request from a county child welfare agency with criminal
26 record and exemption authority to receive the notice only if all of
27 the following conditions are met:

28 (i) The request shall be submitted to the Department of Justice
29 by the agency to be substituted to receive the notification.

30 (ii) The request shall be for the same applicant type as the type
31 for which the original clearance was obtained.

32 (iii) The request shall contain all prescribed data elements and
33 format protocols pursuant to a written agreement between the State
34 Department of Social Services and the Department of Justice.

35 (i) The full criminal record obtained for purposes of this section
36 may be used by the department or by a licensed adoption agency
37 as a clearance required for adoption purposes.

38 (j) If a licensee or facility is required by law to deny employment
39 or to terminate employment of any employee based on written
40 notification from the state department that the employee has a prior

criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(k) The State Department of Social Services may charge a fee for the costs of processing electronic fingerprint images and related information.

(l) Amendments to this section made in the 1999 portion of the 1999–2000 Regular Session shall be implemented commencing 60 days after the effective date of the act amending this section in the 1999 portion of the 1999–2000 Regular Session, except that those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation shall be implemented 90 days after the effective date of that act.

SEC. 5. Section 1523.1 of the Health and Safety Code is amended to read:

1523.1. (a) (1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license. The fees are for the purpose of financing the activities specified in this chapter. Fees shall be assessed as follows: *follows, subject to paragraph (2):*

Fee Schedule				
Facility Type	Capacity	Initial Application	Annual	
Foster Family and Adoption Agencies	-	-	-	
Adult Day Programs	—1–15	—\$165	—\$83	
	—16–30	—\$275	—\$138	
	—31–60	—\$550	—\$275	
	—61–75	—\$689	—\$344	
	—76–90	—\$825	—\$413	
	—91–120	—\$1,100	—\$550	
	—121+	—\$1,375	—\$688	
Other Community Care Facilities	—1–3	—\$413	—\$413	
	—4–6	—\$825	—\$413	
	—7–15	—\$1,239	—\$619	

1		16–30	–\$1,650	–\$825
2		31–49	–\$2,064	\$1,032
3	-	50–74	–\$2,477	\$1,239
4	-	75–100	–\$2,891	\$1,445
5	-	101–150	–\$3,304	\$1,652
6	-	151–200	–\$3,852	\$1,926
7	-	201–250	–\$4,400	\$2,200
8	-	251–300	–\$4,950	\$2,475
9	-	301–350	–\$5,500	\$2,750
10	-	351–400	–\$6,050	\$3,025
11	-	401–500	–\$7,150	\$3,575
12	-	501–600	–\$8,250	\$4,125
13	-	601–700	–\$9,350	\$4,675
14	-	701+	\$11,000	\$5,500
15				
16		<i>Fee Schedule</i>		
17			<i>Initial</i>	
18	<i>Facility Type</i>	<i>Capacity</i>	<i>Application</i>	<i>Annual</i>
19	<i>Foster Family and</i>		\$3,025	\$1,513
20	<i>Adoption Agencies</i>			
21	<i>Adult Day Programs</i>	<i>1–15</i>	<i>\$182</i>	<i>\$91</i>
22		<i>16–30</i>	<i>\$303</i>	<i>\$152</i>
23		<i>31–60</i>	<i>\$605</i>	<i>\$303</i>
24		<i>61–75</i>	<i>\$758</i>	<i>\$378</i>
25		<i>76–90</i>	<i>\$908</i>	<i>\$454</i>
26		<i>91–120</i>	<i>\$1,210</i>	<i>\$605</i>
27		<i>121+</i>	<i>\$1,513</i>	<i>\$757</i>
28				
29	<i>Other Community</i>	<i>1–3</i>	<i>\$454</i>	<i>\$454</i>
30	<i>Care Facilities</i>	<i>4–6</i>	<i>\$908</i>	<i>\$454</i>
31		<i>7–15</i>	<i>\$1,363</i>	<i>\$681</i>
32		<i>16–30</i>	<i>\$1,815</i>	<i>\$908</i>
33		<i>31–49</i>	<i>\$2,270</i>	<i>\$1,135</i>
34		<i>50–74</i>	<i>\$2,725</i>	<i>\$1,363</i>
35		<i>75–100</i>	<i>\$3,180</i>	<i>\$1,590</i>
36		<i>101–150</i>	<i>\$3,634</i>	<i>\$1,817</i>
37		<i>151–200</i>	<i>\$4,237</i>	<i>\$2,119</i>
38		<i>201–250</i>	<i>\$4,840</i>	<i>\$2,420</i>
39		<i>251–300</i>	<i>\$5,445</i>	<i>\$2,723</i>
40		<i>301–350</i>	<i>\$6,050</i>	<i>\$3,025</i>

1	351–400	\$6,655	\$3,328
2	401–500	\$7,865	\$3,933
3	501–600	\$9,075	\$4,538
4	601–700	\$10,285	\$5,143
5	701+	\$12,100	\$6,050

(2) (A) *The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.*

(B) *The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.*

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

(A) A fee that represents 50 percent of an established application fee when an existing licensee moves the facility to a new physical address.

(B) A fee that represents 50 percent of the established application fee when a corporate licensee changes who has the authority to select a majority of the board of directors.

(C) A fee of twenty-five dollars (\$25) when an existing licensee seeks to either increase or decrease the licensed capacity of the facility.

(D) An orientation fee of fifty dollars (\$50) for attendance by any individual at a department-sponsored orientation session.

(E) A probation monitoring fee equal to the *current* annual fee, in addition to the *current* annual fee for that category and capacity for each year a license has been placed on probation as a result of a stipulation or decision and order pursuant to the administrative adjudication procedures of the Administrative Procedure Act (Chapter 4.5 (commencing with Section 11400) and Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

(F) A late fee that represents an additional 50 percent of the established *current* annual fee when any licensee fails to pay the

1 *current* annual licensing fee on or before the due date as indicated
2 by postmark on the payment.

3 (G) A fee to cover any costs incurred by the department for
4 processing payments including, but not limited to, bounced check
5 charges, charges for credit and debit transactions, and postage due
6 charges.

7 (H) A plan of correction fee of two hundred dollars (\$200) when
8 any licensee does not implement a plan of correction on or prior
9 to the date specified in the plan.

10 (2) Foster family homes shall be exempt from the fees imposed
11 pursuant to this subdivision.

12 (3) Foster family agencies shall be annually assessed
13 eighty-eight dollars (\$88) for each home certified by the agency.

14 (4) No local jurisdiction shall impose any business license, fee,
15 or tax for the privilege of operating a facility licensed under this
16 chapter which serves six or fewer persons.

17 (c) (1) The revenues collected from licensing fees pursuant to
18 this section shall be utilized by the department for the purpose of
19 ensuring the health and safety of all individuals provided care and
20 supervision by licensees and to support activities of the licensing
21 program, including, but not limited to, monitoring facilities for
22 compliance with licensing laws and regulations pursuant to this
23 chapter, and other administrative activities in support of the
24 licensing program, when appropriated for these purposes. The
25 revenues collected shall be used in addition to any other funds
26 appropriated in the Budget Act in support of the licensing program.
27 *The department shall adjust the fees collected pursuant to this*
28 *section as necessary to ensure that they do not exceed the costs*
29 *described in this paragraph.*

30 (2) The department shall not utilize any portion of these revenues
31 sooner than 30 days after notification in writing of the purpose
32 and use of this revenue, as approved by the Director of Finance,
33 to the Chairperson of the Joint Legislative Budget Committee, and
34 the chairpersons of the committee in each house that considers
35 appropriations for each fiscal year. The department shall submit
36 a budget change proposal to justify any positions or any other
37 related support costs on an ongoing basis.

38 (d) A facility may use a bona fide business check to pay the
39 license fee required under this section.

(e) The failure of an applicant or licensee to pay all applicable and accrued fees and civil penalties shall constitute grounds for denial or forfeiture of a license.

SEC. 6. Section 1523.2 of the Health and Safety Code is amended to read:

1523.2. (a) Beginning with the 1996–97 fiscal year, there is hereby created in the State Treasury the Technical Assistance Fund, from which money, upon appropriation by the Legislature in the Budget Act, shall be expended by the department to fund administrative and other activities in support of the licensing program.

(b) In each fiscal year, fees collected by the department pursuant to Sections 1523.1, 1568.05, 1569.185, and 1596.803 shall be deposited into the Technical Assistance Fund created pursuant to subdivision (a) and shall be expended by the department for the purpose of ensuring the health and safety of all individuals provided care and supervision by licensees and to support activities of the licensing program, including, but not limited to, monitoring facilities for compliance with applicable laws and regulations.

(c) Notwithstanding any other provision of law, revenues received by the department from payment of civil penalties imposed on licensed facilities pursuant to Sections 1522, 1536, 1547, 1548, 1568.0821, 1568.0822, 1568.09, 1569.17, 1569.485, and 1569.49 shall be deposited into the Technical Assistance Fund created pursuant to subdivision (a), and ~~shall~~ *may* be expended by the department ~~exclusively~~ for the technical assistance, training, and education of licensees.

SEC. 7. Section 1533 of the Health and Safety Code is amended to read:

1533. (a) Except as otherwise provided in this section, any duly authorized officer, employee, or agent of the State Department of Social Services may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, any provision of this chapter.

~~Foster~~

(b) (1) ~~Foster~~ family homes ~~which~~ *that* are considered private residences for the purposes of Section 1530.5 shall not be subject to inspection by the department or its officers without advance

1 notice, except in response to a ~~complaint~~. *complaint, a plan of*
2 *correction, or as set forth in Section 1534. The unannounced visits*
3 *complaint inspection shall not constitute the annual evaluation*
4 *visit an inspection as required by Section 1534. Inspection visits*
5 *to Announced inspections of foster family homes required by*
6 *Section 1534 shall be made during normal business hours, unless*
7 *the serious nature of a complaint requires otherwise.*

8 “~~Normal business hours,~~” as

9 (2) As used in this section, subdivision, “normal business hours”
10 means from 8 a.m. to 5 p.m., inclusive, of each day from Monday
11 to Friday, inclusive, other than state holidays.

12 SEC. 8. Section 1534 of the Health and Safety Code is amended
13 to read:

14 1534. (a) (1) (A) Except for foster family homes, every
15 licensed community care facility shall be subject to unannounced
16 inspections by the department.

17 (B) Foster family homes shall be subject to announced
18 inspections by the department, except that a foster family home
19 shall be subject to unannounced inspections in response to a
20 complaint, a plan of correction, or under any of the circumstances
21 set forth in subparagraph (B) of paragraph (2).

22 ~~(a) (1) Every licensed community care facility shall be subject~~
23 ~~to unannounced visits by the department. The~~

24 (2) (A) The department ~~shall visit~~ may inspect these facilities
25 as often as necessary to ensure the quality of care provided.

26 ~~(A)~~

27 (B) The department shall conduct an annual unannounced ~~visit~~
28 ~~to inspection of~~ a facility under any of the following circumstances:

29 (i) When a license is on probation.

30 (ii) When the terms of agreement in a facility compliance plan
31 require an annual ~~evaluation~~. *inspection.*

32 (iii) When an accusation against a licensee is pending.

33 (iv) When a facility requires an annual ~~visit inspection~~ as a
34 condition of receiving federal financial participation.

35 (v) In order to verify that a person who has been ordered out of
36 a facility by the department is no longer at the facility.

37 (C) (i) The department shall conduct annual unannounced
38 inspections of no less than 20 percent of facilities, except for foster
39 family homes, not subject to an inspection under subparagraph
40 (B).

1 (ii) *The department shall conduct annual announced inspections*
2 *of no less than 20 percent of foster family homes not subject to an*
3 *inspection under subparagraph (B).*

4 ~~(B) (i) The department shall conduct annual unannounced visits~~
5 ~~to no less than 20 percent of facilities not subject to an evaluation~~
6 ~~under subparagraph (A). These unannounced visits~~

7 (iii) *These inspections shall be conducted based on a random*
8 *sampling methodology developed by the department.*

9 ~~(ii)~~

10 (iv) *If the total citations issued by the department to facilities*
11 *exceed the previous year's total by 10 percent, the following year*
12 *the department shall increase the random sample by an additional*
13 *10 percent of the facilities not subject to an evaluation inspection*
14 *under subparagraph—(A): (B). The department may request*
15 *additional resources to increase the random sample by 10 percent.*

16 ~~(C) Under no circumstance shall the department visit a~~

17 (v) *The department shall not inspect a licensed community care*
18 *facility less often than once every five years.*

19 ~~(D)~~

20 (3) *In order to facilitate direct contact with group home clients,*
21 *the department may interview children who are clients of group*
22 *homes at any public agency or private agency at which the client*
23 *may be found, including, but not limited to, a juvenile hall,*
24 *recreation or vocational program, or a public or nonpublic school.*
25 *The department shall respect the rights of the child while*
26 *conducting the interview, including informing the child that he or*
27 *she has the right not to be interviewed and the right to have another*
28 *adult present during the interview.*

29 ~~(2)~~

30 (4) *The department shall notify the community care facility in*
31 *writing of all deficiencies in its compliance with the provisions of*
32 *this chapter and the rules and regulations adopted pursuant to this*
33 *chapter, and shall set a reasonable length of time for compliance*
34 *by the facility.*

35 ~~(3)~~

36 (5) *Reports on the results of each inspection, evaluation, or*
37 *consultation shall be kept on file in the department, and all*
38 *inspection reports, consultation reports, lists of deficiencies, and*
39 *plans of correction shall be open to public inspection.*

1 (b) (1) ~~Nothing in this~~ *This section shall* does not limit the
2 authority of the department to inspect or evaluate a licensed foster
3 family agency, a certified family home, or any aspect of a program
4 ~~where in which~~ a licensed community care facility is certifying
5 compliance with licensing requirements.

6 (2) (A) *A foster family agency shall conduct an announced*
7 *inspection of a certified family home during the annual*
8 *recertification described in Section 1506 in order to ensure that*
9 *the certified family home meets all applicable licensing standards.*
10 *A foster family agency may inspect a certified family home as often*
11 *as necessary to ensure the quality of care provided.*

12 (B) *In addition to the inspections required pursuant to*
13 *subparagraph (A), a foster family agency shall conduct an*
14 *unannounced inspection of a certified family home under any of*
15 *the following circumstances:*

16 (i) *When a certified family home is on probation.*

17 (ii) *When the terms of the agreement in a facility compliance*
18 *plan require an annual inspection.*

19 (iii) *When an accusation against a certified family home is*
20 *pending.*

21 (iv) *When a certified family home requires an annual inspection*
22 *as a condition of receiving federal financial participation.*

23 (v) *In order to verify that a person who has been ordered out*
24 *of a certified family home by the department is no longer at the*
25 *home.*

26 ~~(2)~~

27 (3) Upon a finding of noncompliance by the department, the
28 department may require a foster family agency to deny or revoke
29 the certificate of approval of a certified family home, or take other
30 action the department may deem necessary for the protection of a
31 child placed with the *certified* family home. ~~The family home~~
32 *certified parent or prospective foster parent* shall be afforded the
33 due process provided pursuant to this chapter.

34 ~~(3)~~

35 (4) If the department requires a foster family agency to deny or
36 revoke the certificate of approval, the department shall serve an
37 order of denial or revocation upon the certified or prospective
38 foster parent and foster family agency that shall notify the certified
39 or prospective foster parent of the basis of the department's action
40 and of the certified or prospective foster parent's right to a hearing.

1 ~~(4)~~

2 (5) Within 15 days after the department serves an order of denial
3 or revocation, the certified or prospective foster parent may file a
4 written appeal of the department's decision with the department.
5 The department's action shall be final if the certified or prospective
6 foster parent does not file a written appeal within 15 days after the
7 department serves the denial or revocation order.

8 ~~(5)~~

9 (6) The department's order of the denial or revocation of the
10 certificate of approval shall remain in effect until the hearing is
11 completed and the director has made a final determination on the
12 merits.

13 ~~(6)~~

14 (7) A certified or prospective foster parent who files a written
15 appeal of the department's order with the department pursuant to
16 this section shall, as part of the written request, provide his or her
17 current mailing address. The certified or prospective foster parent
18 shall subsequently notify the department in writing of any change
19 in mailing address, until the hearing process has been completed
20 or terminated.

21 ~~(7)~~

22 (8) Hearings held pursuant to this section shall be conducted in
23 accordance with Chapter 5 (commencing with Section 11500) of
24 *Part 1 of Division 3 of Title 2 of the Government Code*. In all
25 proceedings conducted in accordance with this section the standard
26 of proof shall be by a preponderance of the evidence.

27 ~~(8)~~

28 (9) The department may institute or continue a disciplinary
29 proceeding against a certified or prospective foster parent upon
30 any ground provided by this ~~section~~, *section or Section 1550*, enter
31 an order denying or revoking the certificate of approval, or
32 otherwise take disciplinary action against the certified or
33 prospective foster parent, notwithstanding any resignation,
34 withdrawal of application, surrender of the certificate of approval,
35 or denial or revocation of the certificate of approval by the foster
36 family agency.

37 ~~(9)~~

38 (10) A foster family agency's failure to comply with the
39 department's order to deny or revoke the certificate of ~~employment~~

1 *approval* by placing or retaining children in care shall be grounds
2 for disciplining the licensee pursuant to Section 1550.

3 *SEC. 9. Section 1546 of the Health and Safety Code is repealed.*

4 ~~1546. The department may require not more than 50 percent~~
5 ~~of each penalty assessed pursuant to Section 1548 to be transmitted~~
6 ~~to the department for use by the Community Care Licensing~~
7 ~~Division of the state department to establish an emergency resident~~
8 ~~relocation fund to be utilized for the relocation and care of residents~~
9 ~~when a facility's license is revoked or temporarily suspended,~~
10 ~~when appropriated by the Legislature. The money in the fund shall~~
11 ~~cover costs, including but not limited to, transportation expenses,~~
12 ~~expenses incurred in notifying family members, and any other~~
13 ~~costs directly associated with providing continuous care to the~~
14 ~~residents. The department shall seek the advice of providers in~~
15 ~~developing a state plan for emergency resident relocation.~~

16 *SEC. 10. Section 1546 is added to the Health and Safety Code,*
17 *to read:*

18 *1546. An emergency client contingency account may be*
19 *established within the Technical Assistance Fund to which not*
20 *more than 50 percent of each penalty assessed pursuant to Section*
21 *1548 is deposited for use by the Community Care Licensing*
22 *Division of the department, at the discretion of the director, for*
23 *the care and relocation of clients when a facility's license is*
24 *revoked or temporarily suspended. The money in the account shall*
25 *cover costs, including, but not limited to, transportation expenses,*
26 *expenses incurred in notifying family members, and any other costs*
27 *directly associated with providing continuous care and supervision*
28 *to the clients. The department may seek the opinion of stakeholders*
29 *and local governmental agencies in developing policies for*
30 *emergency client care and supervision.*

31 *SEC. 11. Section 1546.1 is added to the Health and Safety*
32 *Code, to read:*

33 *1546.1. (a) (1) It is the intent of the Legislature in enacting*
34 *this section to authorize the department to take quick, effective*
35 *action to protect the health and safety of clients of community care*
36 *facilities and to minimize the effects of transfer trauma that*
37 *accompany the abrupt transfer of clients by appointing a temporary*
38 *manager to assume the operation of a facility that is found to be*
39 *in a condition in which continued operation by the licensee or his*

1 or her representative presents a substantial probability of imminent
2 danger of serious physical harm or death to the clients.

3 (2) A temporary manager appointed pursuant to this section
4 shall assume the operation of the facility in order to bring it into
5 compliance with the law, facilitate a transfer of ownership to a
6 new licensee, or ensure the orderly transfer of clients should the
7 facility be required to close. Upon a final decision and order of
8 revocation of the license or a forfeiture by operation of law, the
9 department shall immediately issue a provisional license to the
10 appointed temporary manager. Notwithstanding the applicable
11 sections of this code governing the revocation of a provisional
12 license, the provisional license issued to a temporary manager
13 shall automatically expire upon the termination of the temporary
14 manager. The temporary manager shall possess the provisional
15 license solely for purposes of carrying out the responsibilities
16 authorized by this section and the duties set forth in the written
17 agreement between the department and the temporary manager.
18 The temporary manager shall have no right to appeal the
19 expiration of the provisional license.

20 (b) For purposes of this section, “temporary manager” means
21 the person, corporation, or other entity appointed temporarily by
22 the department as a substitute facility licensee or administrator
23 with authority to hire, terminate, reassign staff, obligate facility
24 funds, alter facility procedures, and manage the facility to correct
25 deficiencies identified in the facility’s operation. The temporary
26 manager shall have the final authority to direct the care and
27 supervision activities of any person associated with the facility,
28 including superseding the authority of the licensee and the
29 administrator.

30 (c) The director may appoint a temporary manager when it is
31 determined that it is necessary to temporarily suspend any license
32 of a community care facility pursuant to Section 1550.5 and any
33 of the following circumstances exist:

34 (1) The immediate relocation of the clients is not feasible based
35 on transfer trauma, lack of alternate placements, or other
36 emergency considerations for the health and safety of the clients.

37 (2) The licensee is unwilling or unable to comply with the
38 requirements of Section 1556 for the safe and orderly relocation
39 of clients when ordered to do so by the department.

1 (d) (1) Upon appointment, the temporary manager shall
2 complete its application for a license to operate a community care
3 facility and take all necessary steps and make best efforts to
4 eliminate any substantial threat to the health and safety to clients
5 or complete the transfer of clients to alternative placements
6 pursuant to Section 1556. For purposes of a provisional license
7 issued to a temporary manager, the licensee's existing fire safety
8 clearance shall serve as the fire safety clearance for the temporary
9 manager's provisional license.

10 (2) A person shall not impede the operation of a temporary
11 manager. The temporary manager's access to, or possession of,
12 the property shall not be interfered with during the term of the
13 temporary manager appointment. There shall be an automatic stay
14 for a 60-day period subsequent to the appointment of a temporary
15 manager of any action that would interfere with the functioning
16 of the facility, including, but not limited to, termination of utility
17 services, attachments or set-offs of client trust funds, and
18 repossession of equipment in the facility.

19 (e) (1) The appointment of a temporary manager shall be
20 immediately effective and shall continue for a period not to exceed
21 60 days unless otherwise extended in accordance with paragraph
22 (2) of subdivision (h) at the discretion of the department or
23 otherwise terminated earlier by any of the following events:

24 (A) The temporary manager notifies the department, and the
25 department verifies, that the facility meets state and, if applicable,
26 federal standards for operation, and will be able to continue to
27 maintain compliance with those standards after the termination
28 of the appointment of the temporary manager.

29 (B) The department approves a new temporary manager.

30 (C) A new operator is licensed.

31 (D) The department closes the facility.

32 (E) A hearing or court order ends the temporary manager
33 appointment, including the appointment of a receiver under Section
34 1546.2.

35 (F) The appointment is terminated by the department or the
36 temporary manager.

37 (2) The appointment of a temporary manager shall authorize
38 the temporary manager to act pursuant to this section. The
39 appointment shall be made pursuant to a written agreement
40 between the temporary manager and the department that outlines

1 *the circumstances under which the temporary manager may expend*
2 *funds. The department shall provide the licensee and administrator*
3 *with a copy of the accusation to appoint a temporary manager at*
4 *the time of appointment. The accusation shall notify the licensee*
5 *of the licensee's right to petition the Office of Administrative*
6 *Hearings for a hearing to contest the appointment of the temporary*
7 *manager as described in subdivision (f) and shall provide the*
8 *licensee with a form and appropriate information for the licensee's*
9 *use in requesting a hearing.*

10 *(3) The director may rescind the appointment of a temporary*
11 *manager and appoint a new temporary manager at any time that*
12 *the director determines the temporary manager is not adhering to*
13 *the conditions of the appointment.*

14 *(f) (1) The licensee of a community care facility may contest*
15 *the appointment of the temporary manager by filing a petition for*
16 *an order to terminate the appointment of the temporary manager*
17 *with the Office of Administrative Hearings within 15 days from*
18 *the date of mailing of the accusation to appoint a temporary*
19 *manager under subdivision (e). On the same day as the petition is*
20 *filed with the Office of Administrative Hearings, the licensee shall*
21 *serve a copy of the petition to the office of the director.*

22 *(2) Upon receipt of a petition under paragraph (1), the Office*
23 *of Administrative Hearings shall set a hearing date and time within*
24 *10 business days of the receipt of the petition. The office shall*
25 *promptly notify the licensee and the department of the date, time,*
26 *and place of the hearing. The office shall assign the case to an*
27 *administrative law judge. At the hearing, relevant evidence may*
28 *be presented pursuant to Section 11513 of the Government Code.*
29 *The administrative law judge shall issue a written decision on the*
30 *petition within 10 business days of the conclusion of the hearing.*
31 *The 10-day time period for holding the hearing and for rendering*
32 *a decision may be extended by the written agreement of the parties.*

33 *(3) The administrative law judge shall uphold the appointment*
34 *of the temporary manager if the department proves, by a*
35 *preponderance of the evidence, that the circumstances specified*
36 *in subdivision (c) applied to the facility at the time of the*
37 *appointment. The administrative law judge shall order the*
38 *termination of the temporary manager if the burden of proof is*
39 *not satisfied.*

1 (4) *The decision of the administrative law judge is subject to*
2 *judicial review as provided in Section 1094.5 of the Code of Civil*
3 *Procedure by the superior court of the county where the facility*
4 *is located. This review may be requested by the licensee of the*
5 *facility or the department by filing a petition seeking relief from*
6 *the order. The petition may also request the issuance of temporary*
7 *injunctive relief pending the decision on the petition. The superior*
8 *court shall hold a hearing within 10 business days of the filing of*
9 *the petition and shall issue a decision on the petition within 10*
10 *days of the hearing. The department may be represented by legal*
11 *counsel within the department for purposes of court proceedings*
12 *authorized under this section.*

13 (g) *If the licensee of the community care facility does not protest*
14 *the appointment or does not prevail at either the administrative*
15 *hearing under paragraph (2) of subdivision (f) or the superior*
16 *court hearing under paragraph (4) of subdivision (f), the temporary*
17 *manager shall continue in accordance with subdivision (e).*

18 (h) (1) *If the licensee of the community care facility petitions*
19 *the Office of Administrative Hearings pursuant to subdivision (f),*
20 *the appointment of the temporary manager by the director pursuant*
21 *to this section shall continue until it is terminated by the*
22 *administrative law judge or by the superior court, or it shall*
23 *continue until the conditions of subdivision (e) are satisfied,*
24 *whichever is earlier.*

25 (2) *At any time during the appointment of the temporary*
26 *manager, the director may request an extension of the appointment*
27 *by filing a petition for hearing with the Office of Administrative*
28 *Hearings and serving a copy of the petition on the licensee. The*
29 *office shall proceed as specified in paragraph (2) of subdivision*
30 *(f). The administrative law judge may extend the appointment of*
31 *the temporary manager an additional 60 days upon a showing by*
32 *the department that the conditions specified in subdivision (c)*
33 *continue to exist.*

34 (3) *The licensee or the department may request review of the*
35 *administrative law judge's decision on the extension as provided*
36 *in paragraph (4) of subdivision (f).*

37 (i) *The temporary manager appointed pursuant to this section*
38 *shall meet the following qualifications:*

39 (1) *Be qualified to oversee correction of deficiencies on the*
40 *basis of experience and education.*

1 (2) *Not be the subject of any pending actions by the department*
2 *or any other state agency nor have ever been excluded from a*
3 *department licensed facility or had a license or certification*
4 *suspended or revoked by an administrative action by the*
5 *department or any other state agency.*

6 (3) *Have no financial ownership interest in the facility and have*
7 *no member of his or her immediate family who has a financial*
8 *ownership interest in the facility.*

9 (4) *Not currently serve, or within the past two years have served,*
10 *as a member of the staff of the facility.*

11 (j) *Payment of the costs of the temporary manager shall comply*
12 *with the following requirements:*

13 (1) *Upon agreement with the licensee, the costs of the temporary*
14 *manager and any other expenses in connection with the temporary*
15 *management shall be paid directly by the facility while the*
16 *temporary manager is assigned to that facility. Failure of the*
17 *licensee to agree to the payment of those costs may result in the*
18 *payment of the costs by the department and subsequent required*
19 *reimbursement of the department by the licensee pursuant to this*
20 *section.*

21 (2) *Direct costs of the temporary manager shall be equivalent*
22 *to the sum of the following:*

23 (A) *The prevailing fee paid by licensees for positions of the*
24 *same type in the facility's geographic area.*

25 (B) *Additional costs that reasonably would have been incurred*
26 *by the licensee if the licensee and the temporary manager had*
27 *been in an employment relationship.*

28 (C) *Any other reasonable costs incurred by the temporary*
29 *manager in furnishing services pursuant to this section.*

30 (3) *May exceed the amount specified in paragraph (2) if the*
31 *department is otherwise unable to attract a qualified temporary*
32 *manager.*

33 (k) (1) *The responsibilities of the temporary manager may*
34 *include, but are not limited to, the following:*

35 (A) *Paying wages to staff. The temporary manager shall have*
36 *the full power to hire, direct, manage, and discharge employees*
37 *of the facility, subject to any contractual rights they may have. The*
38 *temporary manager shall pay employees at the same rate of*
39 *compensation, including benefits, that the employees would have*

1 *received from the licensee or wages necessary to provide adequate*
2 *staff for the protection of clients and compliance with the law.*

3 *(B) Preserving client funds. The temporary manager shall be*
4 *entitled to, and shall take possession of, all property or assets of*
5 *clients that are in the possession of the licensee or administrator*
6 *of the facility. The temporary manager shall preserve all property,*
7 *assets, and records of clients of which the temporary manager*
8 *takes possession.*

9 *(C) Contracting for outside services as may be needed for the*
10 *operation of the facility. Any contract for outside services in excess*
11 *of five thousand dollars (\$5,000) shall be approved by the director.*

12 *(D) Paying commercial creditors of the facility to the extent*
13 *required to operate the facility. The temporary manager shall*
14 *honor all leases, mortgages, and secured transactions affecting*
15 *the building in which the facility is located and all goods and*
16 *fixtures in the building, but only to the extent of payments that, in*
17 *the case of a rental agreement, are for the use of the property*
18 *during the period of the temporary management, or that, in the*
19 *case of a purchase agreement, come due during the period of the*
20 *temporary management.*

21 *(E) Doing all things necessary and proper to maintain and*
22 *operate the facility in accordance with sound fiscal policies. The*
23 *temporary manager shall take action as is reasonably necessary*
24 *to protect or conserve the assets or property of which the*
25 *temporary manager takes possession and may use those assets or*
26 *property only in the performance of the powers and duties set out*
27 *in this section.*

28 *(2) Expenditures by the temporary manager in excess of five*
29 *thousand dollars (\$5,000) shall be approved by the director. Total*
30 *encumbrances and expenditures by the temporary manager for*
31 *the duration of the temporary management shall not exceed the*
32 *sum of forty-nine thousand nine hundred ninety-nine dollars*
33 *(\$49,999) unless approved by the director in writing.*

34 *(3) The temporary manager shall make no capital improvements*
35 *to the facility in excess of five thousand dollars (\$5,000) without*
36 *the approval of the director.*

37 *(l) (1) To the extent department funds are advanced for the*
38 *costs of the temporary manager or for other expenses in connection*
39 *with the temporary management, the department shall be*
40 *reimbursed from the revenues accruing to the facility or to the*

1 licensee or an entity related to the licensee. Any reimbursement
2 received by the department shall be redeposited in the account
3 from which the department funds were advanced. If the revenues
4 are insufficient to reimburse the department, the unreimbursed
5 amount shall constitute a lien upon the assets of the facility or the
6 proceeds from the sale thereof. The lien against the personal assets
7 of the facility or an entity related to the licensee shall be filed with
8 the Secretary of State on the forms required for a notice of
9 judgment lien. A lien against the real property of the facility or an
10 entity related to the licensee shall be recorded with the county
11 recorder of the county where the facility of the licensee is located
12 or where the real property of the entity related to the licensee is
13 located. The lien shall not attach to the interests of a lessor, unless
14 the lessor is operating the facility. The authority to place a lien
15 against the personal and real property of the licensee for the
16 reimbursement of any state funds expended pursuant to this section
17 shall be given judgment creditor priority.

18 (2) For purposes of this section, “entity related to the licensee”
19 means an entity, other than a natural person, of which the licensee
20 is a subsidiary or an entity in which a person who was obligated
21 to disclose information under Section 1520 possesses an interest
22 that would also require disclosure pursuant to Section 1520.

23 (m) Appointment of a temporary manager under this section
24 does not relieve the licensee of any responsibility for the care and
25 supervision of clients under this chapter. The licensee, even if the
26 license is deemed surrendered or the facility abandoned, shall be
27 required to reimburse the department for all costs associated with
28 operation of the facility during the period the temporary manager
29 is in place that are not accounted for by using facility revenues or
30 for the relocation of clients handled by the department if the
31 licensee fails to comply with the relocation requirements of Section
32 1556 when required by the department to do so. If the licensee
33 fails to reimburse the department under this section, then the
34 department, along with using its own remedies available under
35 this chapter, may request that the Attorney General’s office, the
36 city attorney’s office, or the local district attorney’s office seek
37 any available criminal, civil, or administrative remedy, including,
38 but not limited to, injunctive relief, restitution, and damages in the
39 same manner as provided for in Chapter 5 (commencing with

1 Section 17200) of Part 2 of Division 7 of the Business and
2 Professions Code.

3 (n) The department may use funds from the emergency client
4 contingency account pursuant to Section 1546 when needed to
5 supplement the operation of the facility or the transfer of clients
6 under the control of the temporary manager appointed under this
7 section if facility revenues are unavailable or exhausted when
8 needed. Pursuant to subdivision (l), the licensee shall be required
9 to reimburse the department for any funds used from the emergency
10 client contingency account during the period of control of the
11 temporary manager and any incurred costs of collection.

12 (o) This section does not apply to a residential facility that
13 serves six or fewer persons and is also the principal residence of
14 the licensee.

15 (p) Notwithstanding any other provision of law, the temporary
16 manager shall be liable only for damages resulting from gross
17 negligence in the operation of the facility or intentional tortious
18 acts.

19 (q) All governmental immunities otherwise applicable to the
20 state shall also apply to the state in the use of a temporary manager
21 in the operation of a facility pursuant to this section.

22 (r) A licensee shall not be liable for any occurrences during the
23 temporary management under this section except to the extent that
24 the occurrences are the result of the licensee's conduct.

25 (s) The department may adopt regulations for the administration
26 of this section.

27 SEC. 12. Section 1546.2 is added to the Health and Safety
28 Code, to read:

29 1546.2. (a) It is the intent of the Legislature in enacting this
30 section to authorize the department to take quick, effective action
31 to protect the health and safety of residents of community care
32 facilities and to minimize the effects of transfer trauma that
33 accompany the abrupt transfer of clients through a system whereby
34 the department may apply for a court order appointing a receiver
35 to temporarily operate a community care facility. The receivership
36 is not intended to punish a licensee or to replace attempts to secure
37 cooperative action to protect the clients' health and safety. The
38 receivership is intended to protect the clients in the absence of
39 other reasonably available alternatives. The receiver shall assume
40 the operation of the facility in order to bring it into compliance

1 with law, facilitate a transfer of ownership to a new licensee, or
2 ensure the orderly transfer of clients should the facility be required
3 to close.

4 (b) (1) Whenever circumstances exist indicating that continued
5 management of a community care facility by the current licensee
6 would present a substantial probability or imminent danger of
7 serious physical harm or death to the clients, or the facility is
8 closing or intends to terminate operation as a community care
9 facility and adequate arrangements for relocation of clients have
10 not been made at least 30 days prior to the closing or termination,
11 the director may petition the superior court for the county in which
12 the community care facility is located for an order appointing a
13 receiver to temporarily operate the community care facility in
14 accordance with this section.

15 (2) The petition shall allege the facts upon which the action is
16 based and shall be supported by an affidavit of the director. A
17 copy of the petition and affidavits, together with an order to appear
18 and show cause why temporary authority to operate the community
19 care facility should not be vested in a receiver pursuant to this
20 section, shall be delivered to the licensee, administrator, or a
21 responsible person at the facility to the attention of the licensee
22 and administrator. The order shall specify a hearing date, which
23 shall be not less than 10, nor more than 15, days following delivery
24 of the petition and order upon the licensee, except that the court
25 may shorten or lengthen the time upon a showing of just cause.

26 (c) (1) If the director files a petition pursuant to subdivision
27 (b) for appointment of a receiver to operate a community care
28 facility, in accordance with Section 564 of the Code of Civil
29 Procedure, the director may also petition the court, in accordance
30 with Section 527 of the Code of Civil Procedure, for an order
31 appointing a temporary receiver. A temporary receiver appointed
32 by the court pursuant to this subdivision shall serve until the court
33 has made a final determination on the petition for appointment of
34 a receiver filed pursuant to subdivision (b). A receiver appointed
35 pursuant to this subdivision shall have the same powers and duties
36 as a receiver would have if appointed pursuant to subdivision (b).
37 Upon the director filing a petition for a receiver, the receiver shall
38 complete its application for a provisional license to operate a
39 community care facility. For purposes of a provisional license
40 issued to a receiver, the licensee's existing fire safety clearance

1 *shall serve as the fire safety clearance for the receiver's provisional*
2 *license.*

3 *(2) At the time of the hearing, the department shall advise the*
4 *licensee of the name of the proposed receiver. The receiver shall*
5 *be a certified community care facility administrator or other*
6 *responsible person or entity, as determined by the court, from a*
7 *list of qualified receivers established by the department, and, if*
8 *need be, with input from providers of residential care and*
9 *consumer representatives. Persons appearing on the list shall have*
10 *experience in the delivery of care services to clients of community*
11 *care facilities, and, if feasible, shall have experience with the*
12 *operation of a community care facility, shall not be the subject of*
13 *any pending actions by the department or any other state agency,*
14 *and shall not have ever been excluded from a department licensed*
15 *facility nor have had a license or certification suspended or*
16 *revoked by an administrative action by the department or any other*
17 *state agency. The receivers shall have sufficient background and*
18 *experience in management and finances to ensure compliance with*
19 *orders issued by the court. The owner, licensee, or administrator*
20 *shall not be appointed as the receiver unless authorized by the*
21 *court.*

22 *(3) If at the conclusion of the hearing, which may include oral*
23 *testimony and cross-examination at the option of any party, the*
24 *court determines that adequate grounds exist for the appointment*
25 *of a receiver and that there is no other reasonably available*
26 *remedy to protect the clients, the court may issue an order*
27 *appointing a receiver to temporarily operate the community care*
28 *facility and enjoining the licensee from interfering with the receiver*
29 *in the conduct of his or her duties. In these proceedings, the court*
30 *shall make written findings of fact and conclusions of law and*
31 *shall require an appropriate bond to be filed by the receiver and*
32 *paid for by the licensee. The bond shall be in an amount necessary*
33 *to protect the licensee in the event of any failure on the part of the*
34 *receiver to act in a reasonable manner. The bond requirement*
35 *may be waived by the licensee.*

36 *(4) The court may permit the licensee to participate in the*
37 *continued operation of the facility during the pendency of any*
38 *receivership ordered pursuant to this section and shall issue an*
39 *order detailing the nature and scope of participation.*

1 (5) *Failure of the licensee to appear at the hearing on the*
2 *petition shall constitute an admission of all factual allegations*
3 *contained in the petition for purposes of these proceedings only.*

4 (6) *The licensee shall receive notice and a copy of the*
5 *application each time the receiver applies to the court or the*
6 *department for instructions regarding his or her duties under this*
7 *section, when an accounting pursuant to subdivision (i) is*
8 *submitted, and when any other report otherwise required under*
9 *this section is submitted. The licensee shall have an opportunity*
10 *to present objections or otherwise participate in those proceedings.*

11 (d) *A person shall not impede the operation of a receivership*
12 *created under this section. The receiver's access to, or possession*
13 *of, the property shall not be interfered with during the term of the*
14 *receivership. There shall be an automatic stay for a 60-day period*
15 *subsequent to the appointment of a receiver of any action that*
16 *would interfere with the functioning of the facility, including, but*
17 *not limited to, cancellation of insurance policies executed by the*
18 *licensees, termination of utility services, attachments or setoffs of*
19 *client trust funds and working capital accounts, and repossession*
20 *of equipment in the facility.*

21 (e) *When a receiver is appointed, the licensee may, at the*
22 *discretion of the court, be divested of possession and control of*
23 *the facility in favor of the receiver. If the court divests the licensee*
24 *of possession and control of the facility in favor of the receiver,*
25 *the department shall immediately issue a provisional license to*
26 *the receiver. Notwithstanding the applicable sections of this code*
27 *governing the revocation of a provisional license, the provisional*
28 *license issued to a receiver shall automatically expire upon the*
29 *termination of the receivership. The receiver shall possess the*
30 *provisional license solely for purposes of carrying out the*
31 *responsibilities authorized by this section and the duties ordered*
32 *by the court. The receiver shall have no right to appeal the*
33 *expiration of the provisional license.*

34 (f) *A receiver appointed pursuant to this section:*

35 (1) *May exercise those powers and shall perform those duties*
36 *ordered by the court, in addition to other duties provided by statute.*

37 (2) *Shall operate the facility in a manner that ensures the safety*
38 *and adequate care for the clients.*

39 (3) *Shall have the same rights to possession of the building in*
40 *which the facility is located, and of all goods and fixtures in the*

1 *building at the time the petition for receivership is filed, as the*
2 *licensee and administrator would have had if the receiver had not*
3 *been appointed.*

4 *(4) May use the funds, building, fixtures, furnishings, and any*
5 *accompanying consumable goods in the provision of care and*
6 *services to clients and to any other persons receiving services from*
7 *the facility at the time the petition for receivership was filed.*

8 *(5) Shall take title to all revenue coming to the facility in the*
9 *name of the receiver who shall use it for the following purposes*
10 *in descending order of priority:*

11 *(A) To pay wages to staff. The receiver shall have full power to*
12 *hire, direct, manage, and discharge employees of the facility,*
13 *subject to any contractual rights they may have. The receiver shall*
14 *pay employees at the same rate of compensation, including benefits,*
15 *that the employees would have received from the licensee or wages*
16 *necessary to provide adequate staff for the protection of the clients*
17 *and compliance with the law.*

18 *(B) To preserve client funds. The receiver shall be entitled to,*
19 *and shall take, possession of all property or assets of clients that*
20 *are in the possession of the licensee or operator of the facility. The*
21 *receiver shall preserve all property, assets, and records of clients*
22 *of which the receiver takes possession.*

23 *(C) To contract for outside services as may be needed for the*
24 *operation of the community care facility. Any contract for outside*
25 *services in excess of five thousand dollars (\$5,000) shall be*
26 *approved by the court.*

27 *(D) To pay commercial creditors of the facility to the extent*
28 *required to operate the facility. Except as provided in subdivision*
29 *(h), the receiver shall honor all leases, mortgages, and secured*
30 *transactions affecting the building in which the facility is located*
31 *and all goods and fixtures in the building of which the receiver*
32 *has taken possession, but only to the extent of payments which, in*
33 *the case of a rental agreement, are for the use of the property*
34 *during the period of receivership, or which, in the case of a*
35 *purchase agreement, come due during the period of receivership.*

36 *(E) To receive a salary, as approved by the court.*

37 *(F) To do all things necessary and proper to maintain and*
38 *operate the facility in accordance with sound fiscal policies. The*
39 *receiver shall take action as is reasonably necessary to protect or*
40 *conserve the assets or property of which the receiver takes*

1 *possession and may use those assets or property only in the*
2 *performance of the powers and duties set out in this section and*
3 *by order of the court.*

4 *(G) To ask the court for direction in the treatment of debts*
5 *incurred prior to the appointment, if the licensee's debts appear*
6 *extraordinary, of questionable validity, or unrelated to the normal*
7 *and expected maintenance and operation of the facility, or if*
8 *payment of the debts will interfere with the purposes of*
9 *receivership.*

10 *(g) (1) A person who is served with notice of an order of the*
11 *court appointing a receiver and of the receiver's name and address*
12 *shall be liable to pay the receiver, rather than the licensee, for any*
13 *goods or services provided by the community care facility after*
14 *the date of the order. The receiver shall give a receipt for each*
15 *payment and shall keep a copy of each receipt on file. The receiver*
16 *shall deposit amounts received in a special account and shall use*
17 *this account for all disbursements. Payment to the receiver*
18 *pursuant to this subdivision shall discharge the obligation to the*
19 *extent of the payment and shall not thereafter be the basis of a*
20 *claim by the licensee or any other person. A client shall not be*
21 *evicted nor may any contract or rights be forfeited or impaired,*
22 *nor may any forfeiture be effected or liability increased, by reason*
23 *of an omission to pay the licensee, operator, or other person a*
24 *sum paid to the receiver pursuant to this subdivision.*

25 *(2) This section shall not be construed to suspend, during the*
26 *temporary management by the receiver, any obligation of the*
27 *licensee for payment of local, state, or federal taxes. A licensee*
28 *shall not be held liable for acts or omissions of the receiver during*
29 *the term of the temporary management.*

30 *(3) Upon petition of the receiver, the court may order immediate*
31 *payment to the receiver for past services that have been rendered*
32 *and billed, and the court may also order a sum not to exceed one*
33 *month's advance payment to the receiver of any sums that may*
34 *become payable under the Medi-Cal program.*

35 *(h) (1) A receiver shall not be required to honor a lease,*
36 *mortgage, or secured transaction entered into by the licensee of*
37 *the facility and another party if the court finds that the agreement*
38 *between the parties was entered into for a collusive, fraudulent*
39 *purpose or that the agreement is unrelated to the operation of the*
40 *facility.*

1 (2) A lease, mortgage, or secured transaction or an agreement
2 unrelated to the operation of the facility that the receiver is
3 permitted to dishonor pursuant to this subdivision shall only be
4 subject to nonpayment by the receiver for the duration of the
5 receivership, and the dishonoring of the lease, mortgage, security
6 interest, or other agreement, to this extent, by the receiver shall
7 not relieve the owner or operator of the facility from any liability
8 for the full amount due under the lease, mortgage, security interest,
9 or other agreement.

10 (3) If the receiver is in possession of real estate or goods subject
11 to a lease, mortgage, or security interest that the receiver is
12 permitted to avoid pursuant to paragraph (1), and if the real estate
13 or goods are necessary for the continued operation of the facility,
14 the receiver may apply to the court to set a reasonable rent, price,
15 or rate of interest to be paid by the receiver during the duration
16 of the receivership. The court shall hold a hearing on this
17 application within 15 days. The receiver shall send notice of the
18 application to any known owner of the property involved at least
19 10 days prior to the hearing.

20 (4) Payment by the receiver of the amount determined by the
21 court to be reasonable is a defense to any action against the
22 receiver for payment or possession of the goods or real estate,
23 subject to the lease or mortgage, which is brought by any person
24 who received the notice required by this subdivision. However,
25 payment by the receiver of the amount determined by the court to
26 be reasonable shall not relieve the owner or operator of the facility
27 from any liability for the difference between the amount paid by
28 the receiver and the amount due under the original lease,
29 mortgage, or security interest.

30 (i) A monthly accounting shall be made by the receiver to the
31 department of all moneys received and expended by the receiver
32 on or before the 15th day of the following month or as ordered by
33 the court, and the remainder of income over expenses for that
34 month shall be returned to the licensee. A copy of the accounting
35 shall be provided to the licensee. The licensee or owner of the
36 community care facility may petition the court for a determination
37 as to the reasonableness of any expenditure made pursuant to
38 paragraph (5) of subdivision (f).

39 (j) (1) The receiver shall be appointed for an initial period of
40 not more than three months. The initial three-month period may

1 *be extended for additional periods not exceeding three months, as*
2 *determined by the court pursuant to this section. At the end of one*
3 *month, the receiver shall report to the court on its assessment of*
4 *the probability that the community care facility will meet state*
5 *standards for operation by the end of the initial three-month period*
6 *and will continue to maintain compliance with those standards*
7 *after termination of the receiver's management. If it appears that*
8 *the facility cannot be brought into compliance with state standards*
9 *within the initial three-month period, the court shall take*
10 *appropriate action as follows:*

11 *(A) Extend the receiver's management for an additional three*
12 *months if there is a substantial likelihood that the facility will meet*
13 *state standards within that period and will maintain compliance*
14 *with the standards after termination of the receiver's management.*
15 *The receiver shall report to the court in writing upon the facility's*
16 *progress at the end of six weeks of any extension ordered pursuant*
17 *to this paragraph.*

18 *(B) Order the director to revoke or temporarily suspend, or*
19 *both, the license pursuant to Article 5 (commencing with Section*
20 *1550) and extend the receiver's management for the period*
21 *necessary to transfer clients in accordance with the transfer plan,*
22 *but for not more than three months from the date of initial*
23 *appointment of a receiver, or 14 days, whichever is greater. An*
24 *extension of an additional three months may be granted if deemed*
25 *necessary by the court.*

26 *(2) If it appears at the end of six weeks of an extension ordered*
27 *pursuant to subparagraph (A) of paragraph (1) that the facility*
28 *cannot be brought into compliance with state standards for*
29 *operation or that it will not maintain compliance with those*
30 *standards after the receiver's management is terminated, the court*
31 *shall take appropriate action as specified in subparagraph (B) of*
32 *paragraph (1).*

33 *(3) In evaluating the probability that a community care facility*
34 *will maintain compliance with state standards of operation after*
35 *the termination of receiver management ordered by the court, the*
36 *court shall consider at least the following factors:*

37 *(A) The duration, frequency, and severity of past violations in*
38 *the facility.*

39 *(B) History of compliance in other care facilities operated by*
40 *the proposed licensee.*

1 (C) *Efforts by the licensee to prevent and correct past violations.*

2 (D) *The financial ability of the licensee to operate in compliance*
3 *with state standards.*

4 (E) *The recommendations and reports of the receiver.*

5 (4) *Management of a community care facility operated by a*
6 *receiver pursuant to this section shall not be returned to the*
7 *licensee, to any person related to the licensee, or to any person*
8 *who served as a member of the facility's staff or who was employed*
9 *by the licensee prior to the appointment of the receiver unless both*
10 *of the following conditions are met:*

11 (A) *The department believes that it would be in the best interests*
12 *of the clients of the facility, requests that the court return the*
13 *operation of the facility to the former licensee, and provides clear*
14 *and convincing evidence to the court that it is in the best interests*
15 *of the facility's clients to take that action.*

16 (B) *The court finds that the licensee has fully cooperated with*
17 *the department in the appointment and ongoing activities of a*
18 *receiver appointed pursuant to this section, and, if applicable, any*
19 *temporary manager appointed pursuant to Section 1546.1.*

20 (5) *The owner of the facility may at any time sell, lease, or close*
21 *the facility, subject to the following provisions:*

22 (A) *If the owner closes the facility, or the sale or lease results*
23 *in the closure of the facility, the court shall determine if a transfer*
24 *plan is necessary. If the court so determines, the court shall adopt*
25 *and implement a transfer plan consistent with the provisions of*
26 *Section 1556.*

27 (B) *If the licensee proposes to sell or lease the facility and the*
28 *facility will continue to operate as a community care facility, the*
29 *court and the department shall reevaluate any proposed transfer*
30 *plan. If the court and the department determine that the sale or*
31 *lease of the facility will result in compliance with licensing*
32 *standards, the transfer plan and the receivership shall, subject to*
33 *those conditions that the court may impose and enforce, be*
34 *terminated upon the effective date of the sale or lease.*

35 (k) (1) *The salary of the receiver shall be set by the court*
36 *commensurate with community care facility industry standards,*
37 *giving due consideration to the difficulty of the duties undertaken,*
38 *and shall be paid from the revenue coming to the facility. If the*
39 *revenue is insufficient to pay the salary in addition to other*
40 *expenses of operating the facility, the receiver's salary shall be*

1 *paid from the emergency client contingency account as provided*
2 *in Section 1546. State advances of funds in excess of five thousand*
3 *dollars (\$5,000) shall be approved by the director. Total advances*
4 *for encumbrances and expenditures shall not exceed the sum of*
5 *forty-nine thousand nine hundred ninety-nine dollars (\$49,999)*
6 *unless approved by the director in writing.*

7 *(2) To the extent state funds are advanced for the salary of the*
8 *receiver or for other expenses in connection with the receivership,*
9 *as limited by subdivision (g), the state shall be reimbursed from*
10 *the revenues accruing to the facility or to the licensee or an entity*
11 *related to the licensee. Any reimbursement received by the state*
12 *shall be redeposited in the account from which the state funds were*
13 *advanced. If the revenues are insufficient to reimburse the state,*
14 *the unreimbursed amount shall constitute a lien upon the assets*
15 *of the facility or the proceeds from the sale thereof. The lien against*
16 *the personal assets of the facility or an entity related to the licensee*
17 *shall be filed with the Secretary of State on the forms required for*
18 *a notice of judgment lien. A lien against the real property of the*
19 *facility or an entity related to the licensee shall be recorded with*
20 *the county recorder of the county where the facility of the licensee*
21 *is located or where the real property of the entity related to the*
22 *licensee is located. The lien shall not attach to the interests of a*
23 *lessor, unless the lessor is operating the facility.*

24 *(3) For purposes of this subdivision, "entity related to the*
25 *licensee" means an entity, other than a natural person, of which*
26 *the licensee is a subsidiary or an entity in which any person who*
27 *was obligated to disclose information under Section 1520 possesses*
28 *an interest that would also require disclosure pursuant to Section*
29 *1520.*

30 *(l) (1) This section does not impair the right of the owner of a*
31 *community care facility to dispose of his or her property interests*
32 *in the facility, but any facility operated by a receiver pursuant to*
33 *this section shall remain subject to that administration until*
34 *terminated by the court. The termination shall be promptly*
35 *effectuated, provided that the interests of the clients have been*
36 *safeguarded as determined by the court.*

37 *(2) This section does not limit the power of the court to appoint*
38 *a receiver under any other applicable provision of law or to order*
39 *any other remedy available under law.*

1 (m) (1) *Notwithstanding any other provision of law, the receiver*
2 *shall be liable only for damages resulting from gross negligence*
3 *in the operation of the facility or intentional tortious acts.*

4 (2) *All governmental immunities otherwise applicable to the*
5 *State of California shall also apply in the use of a receiver in the*
6 *operation if a facility pursuant to this section.*

7 (3) *The licensee shall not be liable for any occurrences during*
8 *the receivership except to the extent that the occurrences are the*
9 *result of the licensee's conduct.*

10 (n) *The department may adopt regulations for the administration*
11 *of this section. This section does not impair the authority of the*
12 *department to temporarily suspend licenses under Section 1550.5*
13 *or to reach a voluntary agreement with the licensee for alternate*
14 *management of a community care facility including the use of a*
15 *temporary manager under Section 1546.1. This section does not*
16 *authorize the department to interfere in a labor dispute.*

17 (o) *This section does not apply to a residential facility that*
18 *serves six or fewer persons and is also the principal residence of*
19 *the licensee.*

20 (p) *This section does not apply to a licensee that has obtained*
21 *a certificate of authority to offer continuing care contracts, as*
22 *defined in paragraph (8) of subdivision (c) of Section 1771.*

23 SEC. 13. *Section 1548.1 is added to the Health and Safety*
24 *Code, to read:*

25 1548.1. *The Legislature finds and declares that the current*
26 *civil penalty structure for facilities licensed by the State*
27 *Department of Social Services is insufficient to ensure the health*
28 *and safety of those in care. It is the intent of the Legislature to*
29 *comprehensively increase these penalties for all facilities in*
30 *subsequent legislation, with particular emphasis on penalties for*
31 *violations that result in serious injury or death.*

32 SEC. 14. *Section 1550 of the Health and Safety Code is*
33 *amended to read:*

34 1550. The department may deny an application for, or suspend
35 or revoke, any license, or any *special permit, certificate of*
36 *approval, or administrator certificate*, issued under this chapter
37 upon any of the following grounds and in the manner provided in
38 this chapter, or may deny a transfer of a license pursuant to
39 paragraph (2) of subdivision (b) of Section 1524 for any of the
40 following grounds:

1 (a) Violation ~~by the licensee or holder of a special permit of~~
2 this chapter or of the rules and regulations promulgated under this
3 ~~chapter.~~ *chapter by the licensee or holder of a special permit or*
4 *certificate.*

5 (b) Aiding, abetting, or permitting the violation of this chapter
6 or of the rules and regulations promulgated under this chapter.

7 (c) Conduct which is inimical to the health, morals, welfare, or
8 safety of either *the people of this state or* an individual in, or
9 receiving services from, the facility ~~or the people of the State of~~
10 ~~California.~~ *certified family home.*

11 (d) The conviction of a licensee, *holder of a special permit or*
12 *certificate, or* other person mentioned in Section 1522, at any time
13 before or during licensure, of a crime as defined in Section 1522.

14 (e) The licensee of any ~~facility~~ *facility, the holder of a special*
15 *permit or certificate, or* the person providing direct care or
16 supervision knowingly allows any child to have illegal drugs or
17 alcohol.

18 (f) Engaging in acts of financial malfeasance concerning the
19 operation of a ~~facility,~~ *facility or certified family home*, including,
20 but not limited to, improper use or embezzlement of client moneys
21 and property or fraudulent appropriation for personal gain of
22 facility moneys and property, or willful or negligent failure to
23 provide services.

24 *SEC. 15. Section 1551 of the Health and Safety Code is*
25 *amended to read:*

26 1551. (a) Proceedings for the suspension, revocation, or denial
27 of a license, registration, special permit, *certificate of approval,*
28 or any administrator certificate under this chapter, or denial of
29 transfer of a license pursuant to paragraph (2) of subdivision (c)
30 of Section 1524, shall be conducted in accordance with Chapter 5
31 (commencing with Section 11500) of Part 1 of Division 3 of Title
32 2 of the Government Code, and the department shall have all the
33 powers granted by those provisions. In the event of conflict
34 between this chapter and the Government Code, the Government
35 Code shall prevail.

36 (b) In all proceedings conducted in accordance with this section,
37 the standard of proof to be applied shall be by the preponderance
38 of the evidence.

39 (c) If the ~~license~~ *license, special permit, certificate of approval,*
40 *or administrator certificate* is not temporarily suspended pursuant

1 to Section 1550, the hearing shall be held within 90 calendar days
2 after receipt of the notice of defense, unless a continuance of the
3 hearing is granted by the department or the administrative law
4 judge. When the matter has been set for hearing only the
5 administrative law judge may grant a continuance of the hearing.
6 The administrative law judge may, but need not, grant a
7 continuance of the hearing only upon finding the existence of one
8 or more of the following:

9 (1) The death or incapacitating illness of a party, a representative
10 or attorney of a party, a witness to an essential fact, or of the parent,
11 child, or member of the household of such person, when it is not
12 feasible to substitute another representative, attorney, or witness
13 because of the proximity of the hearing date.

14 (2) Lack of notice of hearing as provided in Section 11509 of
15 the Government Code.

16 (3) A material change in the status of the case where a change
17 in the parties or pleadings requires postponement, or an executed
18 settlement or stipulated findings of fact obviate the need for
19 hearing. A partial amendment of the pleadings shall not be good
20 cause for continuance to the extent that the unamended portion of
21 the pleadings is ready to be heard.

22 (4) A stipulation for continuance signed by all parties or their
23 authorized representatives, including, but not limited to, a
24 representative, which is communicated with the request for
25 continuance to the administrative law judge no later than 25
26 business days before the hearing.

27 (5) The substitution of the representative or attorney of a party
28 upon showing that the substitution is required.

29 (6) The unavailability of a party, representative, or attorney of
30 a party, or witness to an essential fact due to a conflicting and
31 required appearance in a judicial matter if when the hearing date
32 was set, the person did not know and could neither anticipate nor
33 at any time avoid the conflict, and the conflict with request for
34 continuance is immediately communicated to the administrative
35 law judge.

36 (7) The unavailability of a party, a representative or attorney of
37 a party, or a material witness due to an unavoidable emergency.

38 (8) Failure by a party to comply with a timely discovery request
39 if the continuance request is made by the party who requested the
40 discovery.

1 *SEC. 16. Section 1556 of the Health and Safety Code is*
2 *amended to read:*

3 1556. (a) If the director determines that it is necessary to
4 temporarily suspend any license or special permit of a community
5 care facility in order to protect the residents or clients of the facility
6 from physical or mental abuse, abandonment, or any other
7 substantial threat to health or safety, the department shall make
8 every effort to minimize transfer trauma for the residents or clients.

9 (b) The department shall contact any local agency that may have
10 ~~placement~~ *assessment, placement, protective, or advocacy*
11 responsibility for the residents or clients of a facility after a
12 decision is made to temporarily suspend the license or special
13 permit of the facility and prior to its implementation. The
14 department shall work *together* with these agencies *and the*
15 *licensee, if the director determines it to be appropriate, to locate*
16 alternative placement-sites *sites*, and to contact relatives *or other*
17 *persons* responsible for the care of these ~~clients~~ *residents* or
18 ~~residents~~ *clients, provide onsite evaluation of the residents or*
19 *clients, and assist in the transfer of the residents or clients.*

20 (c) In any case where the department alleges that a client or
21 resident has a health condition or health conditions which cannot
22 be cared for within the limits of the license or special permit, or
23 requires inpatient care in a health facility licensed pursuant to
24 Chapter 2 (commencing with Section 1250), the department shall
25 do all of the following:

26 (1) Consult with ~~physicians and surgeons~~ *appropriate medical*
27 *personnel* about when the client or resident should be removed
28 from the facility and how transfer trauma can be minimized.

29 (2) If the department temporarily suspends the license or special
30 permit of a facility, use ~~physicians and surgeons or other~~ medical
31 personnel deemed appropriate by the department to provide onsite
32 evaluation of the clients or residents.

33 (3) If the department does not suspend the license or special
34 permit of a facility, order the licensee to remove only those clients
35 or residents who have health conditions which cannot be cared for
36 within the limits of the license or special permit or require inpatient
37 care in a health facility licensed pursuant to Chapter 2
38 (commencing with Section 1250), as determined by the department,
39 if the department determines that other clients or residents are not
40 in physical danger.

(d) In any case where the department orders the *temporary suspension of a licensee or orders the* licensee, or holder of a special permit, to remove a client or resident who has a health condition or health conditions which cannot be cared for within the limits of the license or special permit or requires inpatient care in a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), the *department may require the* licensee or holder of a special permit ~~shall~~ to do all of the following:

(1) Prepare and submit to the department a written plan for *the safe and orderly* relocation of the client or resident, in a form acceptable to the department.

(2) Comply with all terms and conditions of the approved relocation plan.

(3) Provide any other information as may be required by the department for the proper administration and enforcement of this section.

SEC. 17. *Section 1558 of the Health and Safety Code is amended to read:*

1558. (a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed ~~facility, facility or certified family home~~, or allowing contact with clients of a licensed facility *or certified family home* by, any employee, prospective employee, or person who is not a client who has:

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

(2) Engaged in conduct that is inimical to the health, morals, welfare, or safety of either *the people of this state or* an individual in or receiving services from the ~~facility, facility or the people of the State of California~~. *certified family home*.

(3) Been denied an exemption to work or to be present in a ~~facility, facility or certified family home~~, when that person has been convicted of a crime as defined in Section 1522.

(4) Engaged in any other conduct that would constitute a basis for disciplining a ~~licensee~~. *licensee or certified family home*.

(5) Engaged in acts of financial malfeasance concerning the operation of a ~~facility, facility or certified family home~~, including, but not limited to, improper use or embezzlement of client moneys

1 and property or fraudulent appropriation for personal gain of
2 facility moneys and property, or willful or negligent failure to
3 provide services.

4 (b) The excluded person, the ~~facility~~, *facility or certified family*
5 *home*, and the licensee shall be given written notice of the basis
6 of the department's action and of the excluded person's right to
7 an appeal. The notice shall be served either by personal service or
8 by registered mail. Within 15 days after the department serves the
9 notice, the excluded person may file with the department a written
10 appeal of the exclusion order. If the excluded person fails to file
11 a written appeal within the prescribed time, the department's action
12 shall be final.

13 (c) (1) The department may require the immediate removal of
14 a member of the board of directors, an executive director, or an
15 officer of a licensee or exclusion of an employee, prospective
16 employee, or person who is not a client from a *facility or certified*
17 *family home* pending a final decision of the matter, when, in the
18 opinion of the director, the action is necessary to protect residents
19 or clients from physical or mental abuse, abandonment, or any
20 other substantial threat to their health or safety.

21 (2) If the department requires the immediate removal of a
22 member of the board of directors, an executive director, or an
23 officer of a licensee or exclusion of an employee, prospective
24 employee, or person who is not a client from a ~~facility~~, *facility or*
25 *certified family home*, the department shall serve an order of
26 immediate exclusion upon the excluded person that shall notify
27 the excluded person of the basis of the department's action and of
28 the excluded person's right to a hearing.

29 (3) Within 15 days after the department serves an order of
30 immediate exclusion, the excluded person may file a written appeal
31 of the exclusion with the department. The department's action
32 shall be final if the excluded person does not appeal the exclusion
33 within the prescribed time. The department shall do the following
34 upon receipt of a written appeal:

35 (A) Within 30 days of receipt of the appeal, serve an accusation
36 upon the excluded person.

37 (B) Within 60 days of receipt of a notice of defense pursuant
38 to Section 11506 of the Government Code by the excluded person
39 to conduct a hearing on the accusation.

1 (4) An order of immediate exclusion of the excluded person
2 from the facility *or certified family home* shall remain in effect
3 until the hearing is completed and the director has made a final
4 determination on the merits. However, the order of immediate
5 exclusion shall be deemed vacated if the director fails to make a
6 final determination on the merits within 60 days after the original
7 hearing has been completed.

8 (d) An excluded person who files a written appeal with the
9 department pursuant to this section shall, as part of the written
10 request, provide his or her current mailing address. The excluded
11 person shall subsequently notify the department in writing of any
12 change in mailing address, until the hearing process has been
13 completed or terminated.

14 (e) Hearings held pursuant to this section shall be conducted in
15 accordance with Chapter 5 (commencing with Section 11500) of
16 Division 3 of Title 2 of the Government Code. The standard of
17 proof shall be the preponderance of the evidence and the burden
18 of proof shall be on the department.

19 (f) The department may institute or continue a disciplinary
20 proceeding against a member of the board of directors, an executive
21 director, or an officer of a licensee or an employee, prospective
22 employee, or person who is not a client upon any ground provided
23 by this section. The department may enter an order prohibiting
24 any person from being a member of the board of directors, an
25 executive director, or an officer of a licensee or prohibiting the
26 excluded person's employment or presence in the ~~facility~~, *facility*
27 *or certified family home*, or otherwise take disciplinary action
28 against the excluded person, notwithstanding any resignation,
29 withdrawal of employment application, or change of duties by the
30 excluded person, or any discharge, failure to hire, or reassignment
31 of the excluded person by the licensee or that the excluded person
32 no longer has contact with clients at the ~~facility~~, *facility or certified*
33 *family home*.

34 (g) A licensee's *or certified family home's* failure to comply
35 with the department's exclusion order after being notified of the
36 order shall be grounds for disciplining the licensee pursuant to
37 Section 1550.

38 (h) (1) (A) In cases where the excluded person appealed the
39 exclusion order, the person shall be prohibited from working in
40 any facility or being licensed to operate any facility licensed by

1 the department or from being a certified foster parent for the
2 remainder of the excluded person's life, unless otherwise ordered
3 by the department.

4 (B) The excluded individual may petition for reinstatement one
5 year after the effective date of the decision and order of the
6 department upholding the exclusion order pursuant to Section
7 11522 of the Government Code. The department shall provide the
8 excluded person with a copy of Section 11522 of the Government
9 Code with the decision and order.

10 (2) (A) In cases where the department informed the excluded
11 person of his or her right to appeal the exclusion order and the
12 excluded person did not appeal the exclusion order, the person
13 shall be prohibited from working in any facility or being licensed
14 to operate any facility licensed by the department or a certified
15 foster parent for the remainder of the excluded person's life, unless
16 otherwise ordered by the department.

17 (B) The excluded individual may petition for reinstatement after
18 one year has elapsed from the date of the notification of the
19 exclusion order pursuant to Section 11522 of the Government
20 Code. The department shall provide the excluded person with a
21 copy of Section 11522 of the Government Code with the exclusion
22 order.

23 *SEC. 18. Section 1562 of the Health and Safety Code is*
24 *amended to read:*

25 1562. (a) The director shall ensure that operators and staffs of
26 community care facilities have appropriate training to provide the
27 care and services for which a license or certificate is issued. The
28 section shall not apply to a facility licensed as an Adult Residential
29 Facility for Persons with Special Health Care Needs pursuant to
30 Article 9 (commencing with Section 1567.50).

31 (b) It is the intent of the Legislature that children in foster care
32 reside in the least restrictive, family-based settings that can meet
33 their needs, and that group homes will be used only for short-term,
34 specialized, and intensive treatment purposes that are consistent
35 with a case plan that is determined by a child's best interests.
36 Accordingly, the Legislature encourages the department to adopt
37 policies, practices, and guidance that ensure that the education,
38 qualification, and training requirements for child care staff in group
39 homes are consistent with the intended role of group homes to
40 provide short-term, specialized, and intensive treatment, with a

particular focus on crisis intervention, behavioral stabilization, and other treatment-related goals, as well as the connections between those efforts and work toward permanency for children.

(c) (1) On and after October 1, 2014, each person employed as a facility manager or staff member of a group home, as defined in paragraph (13) of subdivision (a) of Section 1502, who provides direct care and supervision to children and youth residing in the group home shall be at least 21 years of age.

(2) Paragraph (1) shall not apply to a facility manager or staff member employed at the group home before October 1, 2014.

(3) For purposes of this subdivision, “group home” does not include a runaway and homeless youth shelter.

SEC. 19. Section 1568.05 of the Health and Safety Code is amended to read:

1568.05. (a) (1) An application fee adjusted by facility and capacity, shall be charged by the department for a license to operate a residential care facility for persons with chronic life-threatening illness. After initial licensure, a fee shall be charged by the department annually, on each anniversary of the effective date of the license. The fees are for the purpose of financing the activities specified in this chapter. Fees shall be assessed as follows: follows, subject to paragraph (2):

Capacity	Fee Schedule		
	Initial	Annual	
1–6	\$550		
	\$605	-\$275	\$303 plus -\$10 \$11 per bed
7–15	\$689		
	\$758	-\$344	\$378 plus -\$10 \$11 per bed
16–25	\$825		
	\$908	-\$413	\$454 plus -\$10 \$11 per bed
26+	\$964		
	\$1,060	-\$482	\$530 plus -\$10 \$11 per bed

1 (2) (A) *The Legislature finds that all revenues generated by*
2 *fees for licenses computed under this section and used for the*
3 *purposes for which they were imposed are not subject to Article*
4 *XIII B of the California Constitution.*

5 (B) *The department, at least every five years, shall analyze*
6 *initial application fees and annual fees issued by it to ensure the*
7 *appropriate fee amounts are charged. The department shall*
8 *recommend to the Legislature that fees established by the*
9 *Legislature be adjusted as necessary to ensure that the amounts*
10 *are appropriate.*

11 (b) (1) In addition to fees set forth in subdivision (a), the
12 department shall charge the following fees:

13 (A) A fee that represents 50 percent of an established application
14 fee when an existing licensee moves the facility to a new physical
15 address.

16 (B) A fee that represents 50 percent of the established
17 application fee when a corporate licensee changes who has the
18 authority to select a majority of the board of directors.

19 (C) A fee of twenty-five dollars (\$25) when an existing licensee
20 seeks to either increase or decrease the licensed capacity of the
21 facility.

22 (D) An orientation fee of fifty dollars (\$50) for attendance by
23 any individual at a department-sponsored orientation session.

24 (E) A probation monitoring fee equal to the *current* annual fee,
25 in addition to the *current* annual fee for that category and capacity
26 for each year a license has been placed on probation as a result of
27 a stipulation or decision and order pursuant to the administrative
28 adjudication procedures of the Administrative Procedure Act
29 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
30 (commencing with Section 11500) of Part 1 of Division 3 of Title
31 2 of the Government Code).

32 (F) A late fee that represents an additional 50 percent of the
33 *current* established annual fee when any licensee fails to pay the
34 *current* annual licensing fee on or before the due date as indicated
35 by postmark on the payment.

36 (G) A fee to cover any costs incurred by the department for
37 processing payments including, but not limited to, bounced check
38 charges, charges for credit and debit transactions, and postage due
39 charges.

1 (H) A plan of correction fee of two hundred dollars (\$200) when
2 any licensee does not implement a plan of correction on or prior
3 to the date specified in the plan.

4 (2) No local governmental entity shall impose any business
5 license, fee, or tax for the privilege of operating a facility licensed
6 under this chapter which serves six or fewer persons.

7 (c) All fees collected pursuant to subdivisions (a) and (b) shall
8 be deposited in the Technical Assistance Fund.

9 (d) The revenues collected from licensing fees pursuant to this
10 section shall be utilized by the department for the purpose of
11 ensuring the health and safety of all individuals provided care and
12 supervision by licensees and to support activities of the licensing
13 program, including, but not limited to, monitoring facilities for
14 compliance with licensing laws and regulations pursuant to this
15 chapter, and other administrative activities in support of the
16 licensing program, when appropriated for these purposes. The
17 revenues collected shall be used in addition to any other funds
18 appropriated in the Budget Act in support of the licensing program.
19 *The department shall adjust the fees collected pursuant to this*
20 *section as necessary to ensure that they do not exceed the costs*
21 *described in this subdivision.*

22 (e) The department shall not utilize any portion of the revenues
23 collected pursuant to this section sooner than 30 days after
24 notification in writing of the purpose and use of this revenue, as
25 approved by the Director of Finance, to the Chairperson of the
26 Joint Legislative Budget Committee, and the chairpersons of the
27 committee in each house that considers appropriations for each
28 fiscal year. The department shall submit a budget change proposal
29 to justify any positions or any other related support costs on an
30 ongoing basis.

31 (f) Fees established pursuant to this section shall not be effective
32 unless licensing fees are established for all adult residential
33 facilities licensed by the department.

34 (g) A residential care facility may use a bona fide business check
35 to pay the license fee required under this section.

36 (h) The failure of an applicant for licensure or a licensee to pay
37 all applicable and accrued fees and civil penalties shall constitute
38 grounds for denial or forfeiture of a license.

39 *SEC. 20. Section 1568.07 of the Health and Safety Code is*
40 *amended to read:*

1 1568.07. (a) (1) Within 90 days after a facility accepts its
2 first resident for placement following its initial licensure, the
3 department shall ~~inspect~~ *conduct an unannounced inspection of*
4 the facility to evaluate compliance with rules and regulations and
5 to assess the facility's continuing ability to meet regulatory
6 requirements. The licensee shall notify the department, within five
7 business days after accepting its first resident for placement, that
8 the facility has commenced operating.

9 (2) The department may take appropriate remedial action as
10 provided for in this chapter.

11 (b) (1) Every licensed residential care facility shall be
12 periodically inspected and evaluated for quality of care by a
13 representative or representatives designated by the director.
14 ~~Evaluations~~ *Unannounced inspections* shall be conducted at least
15 annually and as often as necessary to ensure the quality of care
16 being provided.

17 (2) During each licensing inspection the department shall
18 determine if the facility meets regulatory standards, including, but
19 not limited to, providing residents with the appropriate level of
20 care based on the facility's license, providing adequate staffing
21 and services, updated resident records and assessments, and
22 compliance with basic health and safety standards.

23 (3) If the department determines that a resident requires a higher
24 level of care than the facility is authorized to provide, the
25 department may initiate a professional level of care assessment by
26 an assessor approved by the department. An assessment shall be
27 conducted in consultation with the resident, the resident's physician
28 and surgeon, and the resident's case manager, and shall reflect the
29 desires of the resident, the resident's physician and surgeon, and
30 the resident's case manager. The assessment also shall recognize
31 that certain illnesses are episodic in nature and that the resident's
32 need for a higher level of care may be temporary.

33 (4) The department shall notify the residential care facility in
34 writing of all deficiencies in its compliance with this chapter and
35 the rules and regulations adopted pursuant to this chapter, and shall
36 set a reasonable length of time for compliance by the facility.

37 (5) Reports on the results of each ~~inspection, evaluation,~~
38 *inspection* or consultation shall be kept on file in the department,
39 and all inspection reports, consultation reports, lists of deficiencies,
40 and plans of correction shall be open to public inspection.

(c) Any duly authorized officer, employee, or agent of the department may, upon presentation of proper identification, enter and inspect any place providing personal care, supervision, and services, at any time, with or without advance notice, to secure compliance with, or to prevent a violation of, this chapter.

(d) No licensee, or officer or employee of the licensee, shall discriminate or retaliate in any manner, including, but not limited to, eviction or threat of eviction, against any person receiving the services of the licensee's facility, or against any employee of the licensee's facility, on the basis, or for the reason, that the person or employee or any other person has initiated or participated in the filing of a complaint, grievance, or a request for inspection with the department pursuant to this chapter or has initiated or participated in the filing of a complaint, grievance, or request for investigation with the appropriate local or state ombudsman.

(e) Any person who, without lawful authorization from a duly authorized officer, employee, or agent of the department, informs an owner, operator, employee, agent, or resident of a residential care facility, of an impending or proposed inspection or evaluation of that facility by personnel of the department, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars (\$1,000), by imprisonment in the county jail for a period not to exceed 180 days, or by both a fine and imprisonment.

SEC. 21. Section 1569.185 of the Health and Safety Code is amended to read:

1569.185. (a) (1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license to operate a residential care facility for the elderly. After initial licensure, a fee shall be charged by the department annually on each anniversary of the effective date of the license.

The fees are for the purpose of financing activities specified in this chapter. Fees shall be assessed as follows: *follows, subject to paragraph (2):*

Fee Schedule		
	Initial	
Capacity	Application	Annual
1-3	\$413	\$413
	\$454	\$454

1	4-6	-\$825	-\$413
2		\$908	\$454
3	7-15	-\$1,239	-\$619
4		\$1,363	\$681
5	16-30	-\$1,650	-\$825
6		\$1,815	\$908
7	31-49	-\$2,064	-\$1,032
8		\$2,270	\$1,135
9	50-74	-\$2,477	-\$1,239
10		\$2,725	\$1,363
11	75-100	-\$2,891	-\$1,445
12		\$3,180	\$1,590
13	101-150	-\$3,304	-\$1,652
14		\$3,634	\$1,817
15	151-200	-\$3,852	-\$1,926
16		\$4,237	\$2,119
17	201-250	-\$4,400	-\$2,200
18		\$4,840	\$2,420
19	251-300	-\$4,950	-\$2,475
20		\$5,445	\$2,723
21	301-350	\$5,500	\$2,750
22	351-400 301-350		
23		-\$6,050	-\$3,025
24		\$6,050	\$3,025
25	351-400		
26		\$6,655	\$3,328
27	401-500	-\$7,150	-\$3,575
28		\$7,865	\$3,933
29	501-600	-\$8,250	-\$4,125
30		\$9,075	\$4,538
31	601-700	-\$9,350	-\$4,675
32		\$10,285	\$5,143
33	701+	-\$11,000	-\$5,500
34		\$12,100	\$6,050
35			

36 (2) (A) The Legislature finds that all revenues generated by
 37 fees for licenses computed under this section and used for the
 38 purposes for which they were imposed are not subject to Article
 39 XIII B of the California Constitution.

1 (B) *The department, at least every five years, shall analyze*
2 *initial application fees and annual fees issued by it to ensure the*
3 *appropriate fee amounts are charged. The department shall*
4 *recommend to the Legislature that fees established by the*
5 *Legislature be adjusted as necessary to ensure that the amounts*
6 *are appropriate.*

7 (b) (1) In addition to fees set forth in subdivision (a), the
8 department shall charge the following fees:

9 (A) A fee that represents 50 percent of an established application
10 fee when an existing licensee moves the facility to a new physical
11 address.

12 (B) A fee that represents 50 percent of the established
13 application fee when a corporate licensee changes who has the
14 authority to select a majority of the board of directors.

15 (C) A fee of twenty-five dollars (\$25) when an existing licensee
16 seeks to either increase or decrease the licensed capacity of the
17 facility.

18 (D) An orientation fee of fifty dollars (\$50) for attendance by
19 any individual at a department-sponsored orientation session.

20 (E) A probation monitoring fee equal to the *current* annual fee,
21 in addition to the *current* annual fee for that category and capacity
22 for each year a license has been placed on probation as a result of
23 a stipulation or decision and order pursuant to the administrative
24 adjudication procedures of the Administrative Procedure Act
25 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
26 (commencing with Section 11500) of Part 1 of Division 3 of Title
27 2 of the Government Code).

28 (F) A late fee that represents an additional 50 percent of the
29 established *current* annual fee when any licensee fails to pay the
30 *current* annual licensing fee on or before the due date as indicated
31 by postmark on the payment.

32 (G) A fee to cover any costs incurred by the department for
33 processing payments including, but not limited to, bounced check
34 charges, charges for credit and debit transactions, and postage due
35 charges.

36 (H) A plan of correction fee of two hundred dollars (\$200) when
37 any licensee does not implement a plan of correction on or prior
38 to the date specified in the plan.

1 (2) No local jurisdiction shall impose any business license, fee,
2 or tax for the privilege of operating a facility licensed under this
3 chapter which serves six or fewer persons.

4 (c) (1) The revenues collected from licensing fees pursuant to
5 this section shall be utilized by the department for the purpose of
6 ensuring the health and safety of all individuals provided care or
7 supervision by licensees and to support the activities of the
8 licensing programs, including, but not limited to, monitoring
9 facilities for compliance with licensing laws and regulations
10 pursuant to this chapter, and other administrative activities in
11 support of the licensing program, when appropriated for these
12 purposes. The revenues collected shall be used in addition to any
13 other funds appropriated in the annual Budget Act in support of
14 the licensing program. *The department shall adjust the fees*
15 *collected pursuant to this section to ensure that they do not exceed*
16 *the costs described in this paragraph.*

17 (2) The department shall not utilize any portion of these revenues
18 sooner than 30 days after notification in writing of the purpose
19 and use, as approved by the Department of Finance, to the
20 Chairperson of the Joint Legislative Budget Committee, and the
21 chairpersons of the committee in each house that considers
22 appropriations for each fiscal year. The department shall submit
23 a budget change proposal to justify any positions or any other
24 related support costs on an ongoing basis.

25 (d) A residential care facility for the elderly may use a bona
26 fide business check to pay the license fee required under this
27 section.

28 (e) The failure of an applicant for licensure or a licensee to pay
29 all applicable and accrued fees and civil penalties shall constitute
30 grounds for denial or forfeiture of a license.

31 *SEC. 22. Section 1569.20 of the Health and Safety Code is*
32 *amended to read:*

33 1569.20. Upon the filing of the application for issuance of an
34 initial license, the department shall, within five working days of
35 the filing, make a determination regarding the completeness of the
36 application. If the application is complete, the department shall
37 immediately request a fire clearance and notify the applicant to
38 arrange a time for the department to conduct a prelicensure ~~survey~~
39 *inspection*. If the department determines that an application is for
40 *licensure of a currently licensed facility for which there is no*

1 *material change to the management or operations of the facility,*
2 *the prelicensure inspection is optional at the discretion of the*
3 *department. If the application is incomplete, the department shall*
4 *notify the applicant and request the necessary information. Within*
5 *60 days of making a determination that the file is complete, the*
6 *department shall make a determination whether the application is*
7 *in compliance with this chapter and the rules and regulations of*
8 *the department and shall either immediately issue the license or*
9 *notify the applicant of the deficiencies. The notice shall specify*
10 *whether the deficiencies constitute denial of the application or*
11 *whether further corrections for compliance will likely result in*
12 *approval of the application.*

13 *SEC. 23. Section 1569.48 of the Health and Safety Code is*
14 *amended to read:*

15 *1569.48. ~~A fund~~ An emergency resident contingency account*
16 *may be established within the Technical Assistance Fund*
17 *established under Section 1523.2 to which not more than 50 percent*
18 *of each penalty assessed pursuant to Section 1569.49 is ~~transmitted~~*
19 *~~to the department~~ deposited for use by the Community Care*
20 *Licensing Division of the department to establish an emergency*
21 *resident relocation fund to be utilized department, at the discretion*
22 *of the director, for the relocation and care of residents when a*
23 *facility's license is revoked or temporarily ~~suspended, when~~*
24 *~~appropriated by the Legislature.~~ suspended. The money in the fund*
25 *account shall cover costs, including, but not limited to,*
26 *transportation expenses, expenses incurred in notifying family*
27 *members, and any other costs directly associated with providing*
28 *continuous care and supervision to the residents. The department*
29 *shall seek the ~~advice input of providers~~ stakeholders and local*
30 *agencies in developing a state plan policies for emergency resident*
31 *~~relocation.~~ care and supervision.*

32 *SEC. 24. Section 1569.481 is added to the Health and Safety*
33 *Code, to read:*

34 *1569.481. (a) (1) It is the intent of the Legislature in enacting*
35 *this section to authorize the department to take quick, effective*
36 *action to protect the health and safety of residents of residential*
37 *care facilities for the elderly and to minimize the effects of transfer*
38 *trauma that accompany the abrupt transfer of residents by*
39 *appointing a temporary manager to assume the operation of a*
40 *facility that is found to be in a condition in which continued*

1 operation by the licensee or his or her representative presents a
2 substantial probability of imminent danger of serious physical
3 harm or death to the residents.

4 (2) A temporary manager appointed pursuant to this section
5 shall assume the operation of the facility in order to bring it into
6 compliance with the law, facilitate a transfer of ownership to a
7 new licensee, or ensure the orderly transfer of residents should
8 the facility be required to close. Upon a final decision and order
9 of revocation of the license, issuance of a temporary suspension,
10 or a forfeiture by operation of law, the department shall
11 immediately issue a provisional license to the appointed temporary
12 manager. Notwithstanding the applicable sections of this code
13 governing the revocation of a provisional license, the provisional
14 license issued to a temporary manager shall automatically expire
15 upon the termination of the temporary manager. The temporary
16 manager shall possess the provisional license solely for purposes
17 of carrying out the responsibilities authorized by this section and
18 the duties set forth in the written agreement between the department
19 and the temporary manager. The temporary manager shall have
20 no right to appeal the expiration of the provisional license.

21 (b) For purposes of this section, “temporary manager” means
22 the person, corporation, or other entity appointed temporarily by
23 the department as a substitute facility licensee or administrator
24 with authority to hire, terminate, reassign staff, obligate facility
25 funds, alter facility procedures, and manage the facility to correct
26 deficiencies identified in the facility’s operation. The temporary
27 manager shall have the final authority to direct the care and
28 supervision activities of any person associated with the facility,
29 including superseding the authority of the licensee and the
30 administrator.

31 (c) The director, in order to protect the residents of the facility
32 from physical or mental abuse, abandonment, or any other
33 substantial threat to health or safety, may appoint a temporary
34 manager when any of the following circumstances exist:

35 (1) The director determines that it is necessary to temporarily
36 suspend the license of a residential care facility for the elderly
37 pursuant to Section 1569.50 and the immediate relocation of the
38 residents is not feasible based on transfer trauma, lack of available
39 alternative placements, or other emergency considerations for the
40 health and safety of the residents.

1 (2) *The licensee is unwilling or unable to comply with the*
2 *requirements of Section 1569.525 or the requirements of Section*
3 *1569.682 regarding the safe and orderly relocation of residents*
4 *when ordered to do so by the department or when otherwise*
5 *required by law.*

6 (3) *The licensee has opted to secure a temporary manager*
7 *pursuant to Section 1569.525.*

8 (d) (1) *Upon appointment, the temporary manager shall*
9 *complete its application for a license to operate a residential care*
10 *facility for the elderly and take all necessary steps and make best*
11 *efforts to eliminate any substantial threat to the health and safety*
12 *to residents or complete the transfer of residents to alternative*
13 *placements pursuant to Section 1569.525 or 1569.682. For*
14 *purposes of a provisional license issued to a temporary manager,*
15 *the licensee's existing fire safety clearance shall serve as the fire*
16 *safety clearance for the temporary manager's provisional license.*

17 (2) *A person shall not impede the operation of a temporary*
18 *manager. The temporary manager's access to, or possession of,*
19 *the property shall not be interfered with during the term of the*
20 *temporary manager appointment. There shall be an automatic stay*
21 *for a 60-day period subsequent to the appointment of a temporary*
22 *manager of any action that would interfere with the functioning*
23 *of the facility, including, but not limited to, termination of utility*
24 *services, attachments, or setoffs of resident trust funds, and*
25 *repossession of equipment in the facility.*

26 (e) (1) *The appointment of a temporary manager shall be*
27 *immediately effective and shall continue for a period not to exceed*
28 *60 days unless otherwise extended in accordance with paragraph*
29 *(2) of subdivision (h) at the discretion of the department or as*
30 *permitted by paragraph (2) of subdivision (d) of Section 1569.525,*
31 *or unless otherwise terminated earlier by any of the following*
32 *events:*

33 (A) *The temporary manager notifies the department, and the*
34 *department verifies, that the facility meets state and, if applicable,*
35 *federal standards for operation, and will be able to continue to*
36 *maintain compliance with those standards after the termination*
37 *of the appointment of the temporary manager.*

38 (B) *The department approves a new temporary manager.*

39 (C) *A new operator is licensed.*

40 (D) *The department closes the facility.*

1 (E) A hearing or court order ends the temporary manager
2 appointment, including the appointment of a receiver under Section
3 1569.482.

4 (F) The appointment is terminated by the department or the
5 temporary manager.

6 (2) The appointment of a temporary manager shall authorize
7 the temporary manager to act pursuant to this section. The
8 appointment shall be made pursuant to a written agreement
9 between the temporary manager and the department that outlines
10 the circumstances under which the temporary manager may expend
11 funds. The department shall provide the licensee and administrator
12 with a copy of the accusation to appoint a temporary manager at
13 the time of appointment. The accusation shall notify the licensee
14 of the licensee's right to petition the Office of Administrative
15 Hearings for a hearing to contest the appointment of the temporary
16 manager as described in subdivision (f) and shall provide the
17 licensee with a form and appropriate information for the licensee's
18 use in requesting a hearing.

19 (3) The director may rescind the appointment of a temporary
20 manager and appoint a new temporary manager at any time that
21 the director determines the temporary manager is not adhering to
22 the conditions of the appointment.

23 (f) (1) The licensee of a residential care facility for the elderly
24 may contest the appointment of the temporary manager by filing
25 a petition for an order to terminate the appointment of the
26 temporary manager with the Office of Administrative Hearings
27 within 15 days from the date of mailing of the accusation to appoint
28 a temporary manager under subdivision (e). On the same day as
29 the petition is filed with the Office of Administrative Hearings, the
30 licensee shall serve a copy of the petition to the office of the
31 director.

32 (2) Upon receipt of a petition under paragraph (1), the Office
33 of Administrative Hearings shall set a hearing date and time within
34 10 business days of the receipt of the petition. The office shall
35 promptly notify the licensee and the department of the date, time,
36 and place of the hearing. The office shall assign the case to an
37 administrative law judge. At the hearing, relevant evidence may
38 be presented pursuant to Section 11513 of the Government Code.
39 The administrative law judge shall issue a written decision on the
40 petition within 10 business days of the conclusion of the hearing.

1 *The 10-day time period for holding the hearing and for rendering*
2 *a decision may be extended by the written agreement of the parties.*

3 *(3) The administrative law judge shall uphold the appointment*
4 *of the temporary manager if the department proves, by a*
5 *preponderance of the evidence, that the circumstances specified*
6 *in subdivision (c) applied to the facility at the time of the*
7 *appointment. The administrative law judge shall order the*
8 *termination of the temporary manager if the burden of proof is*
9 *not satisfied.*

10 *(4) The decision of the administrative law judge is subject to*
11 *judicial review as provided in Section 1094.5 of the Code of Civil*
12 *Procedure by the superior court of the county where the facility*
13 *is located. This review may be requested by the licensee of the*
14 *facility or the department by filing a petition seeking relief from*
15 *the order. The petition may also request the issuance of temporary*
16 *injunctive relief pending the decision on the petition. The superior*
17 *court shall hold a hearing within 10 business days of the filing of*
18 *the petition and shall issue a decision on the petition within 10*
19 *days of the hearing. The department may be represented by legal*
20 *counsel within the department for purposes of court proceedings*
21 *authorized under this section.*

22 *(g) If the licensee does not protest the appointment or does not*
23 *prevail at either the administrative hearing under paragraph (2)*
24 *of subdivision (f) or the superior court hearing under paragraph*
25 *(4) of subdivision (f), the temporary manager shall continue in*
26 *accordance with subdivision (e).*

27 *(h) (1) If the licensee petitions the Office of Administrative*
28 *Hearings pursuant to subdivision (f), the appointment of the*
29 *temporary manager by the director pursuant to this section shall*
30 *continue until it is terminated by the administrative law judge or*
31 *by the superior court, or it shall continue until the conditions of*
32 *subdivision (e) are satisfied, whichever is earlier.*

33 *(2) At any time during the appointment of the temporary*
34 *manager, the director may request an extension of the appointment*
35 *by filing a petition for hearing with the Office of Administrative*
36 *Hearings and serving a copy of the petition on the licensee. The*
37 *office shall proceed as specified in paragraph (2) of subdivision*
38 *(f). The administrative law judge may extend the appointment of*
39 *the temporary manager an additional 60 days upon a showing by*

1 *the department that the conditions specified in subdivision (c)*
2 *continue to exist.*

3 *(3) The licensee or the department may request review of the*
4 *administrative law judge's decision on the extension as provided*
5 *in paragraph (4) of subdivision (f).*

6 *(i) The temporary manager appointed pursuant to this section*
7 *shall meet the following qualifications:*

8 *(1) Be qualified to oversee correction of deficiencies in a*
9 *residential care facility for the elderly on the basis of experience*
10 *and education.*

11 *(2) Not be the subject of any pending actions by the department*
12 *or any other state agency nor have ever been excluded from a*
13 *department-licensed facility or had a license or certification*
14 *suspended or revoked by an administrative action by the*
15 *department or any other state agency.*

16 *(3) Have no financial ownership interest in the facility and have*
17 *no member of his or her immediate family who has a financial*
18 *ownership interest in the facility.*

19 *(4) Not currently serve, or within the past two years have served,*
20 *as a member of the staff of the facility.*

21 *(j) Payment of the costs of the temporary manager shall comply*
22 *with the following requirements:*

23 *(1) Upon agreement with the licensee, the costs of the temporary*
24 *manager and any other expenses in connection with the temporary*
25 *management shall be paid directly by the facility while the*
26 *temporary manager is assigned to that facility. Failure of the*
27 *licensee to agree to the payment of those costs may result in the*
28 *payment of the costs by the department and subsequent required*
29 *reimbursement of the department by the licensee pursuant to this*
30 *section.*

31 *(2) Direct costs of the temporary manager shall be equivalent*
32 *to the sum of the following:*

33 *(A) The prevailing fee paid by licensees for positions of the*
34 *same type in the facility's geographic area.*

35 *(B) Additional costs that reasonably would have been incurred*
36 *by the licensee if the licensee and the temporary manager had*
37 *been in an employment relationship.*

38 *(C) Any other reasonable costs incurred by the temporary*
39 *manager in furnishing services pursuant to this section.*

1 (3) *Direct costs may exceed the amount specified in paragraph*
2 *(2) if the department is otherwise unable to find a qualified*
3 *temporary manager.*

4 (k) (1) *The responsibilities of the temporary manager may*
5 *include, but are not limited to, the following:*

6 (A) *Paying wages to staff. The temporary manager shall have*
7 *the full power to hire, direct, manage, and discharge employees*
8 *of the facility, subject to any contractual rights they may have. The*
9 *temporary manager shall pay employees at the same rate of*
10 *compensation, including benefits, that the employees would have*
11 *received from the licensee or wages necessary to provide adequate*
12 *staff for the protection of clients and compliance with the law.*

13 (B) *Preserving resident funds. The temporary manager shall*
14 *be entitled to, and shall take possession of, all property or assets*
15 *of residents that are in the possession of the licensee or*
16 *administrator of the facility. The temporary manager shall preserve*
17 *all property, assets, and records of residents of which the*
18 *temporary manager takes possession.*

19 (C) *Contracting for outside services as may be needed for the*
20 *operation of the facility. Any contract for outside services in excess*
21 *of five thousand dollars (\$5,000) shall be approved by the director.*

22 (D) *Paying commercial creditors of the facility to the extent*
23 *required to operate the facility. The temporary manager shall*
24 *honor all leases, mortgages, and secured transactions affecting*
25 *the building in which the facility is located and all goods and*
26 *fixtures in the building, but only to the extent of payments that, in*
27 *the case of a rental agreement, are for the use of the property*
28 *during the period of the temporary management, or that, in the*
29 *case of a purchase agreement, come due during the period of the*
30 *temporary management.*

31 (E) *Performing all acts that are necessary and proper to*
32 *maintain and operate the facility in accordance with sound fiscal*
33 *policies. The temporary manager shall take action as is reasonably*
34 *necessary to protect or conserve the assets or property of which*
35 *the temporary manager takes possession and may use those assets*
36 *or property only in the performance of the powers and duties set*
37 *forth in this section.*

38 (2) *Expenditures by the temporary manager in excess of five*
39 *thousand dollars (\$5,000) shall be approved by the director. Total*
40 *encumbrances and expenditures by the temporary manager for*

1 *the duration of the temporary management shall not exceed the*
2 *sum of forty-nine thousand nine hundred ninety-nine dollars*
3 *(\$49,999) unless approved by the director in writing.*

4 *(3) The temporary manager shall not make capital improvements*
5 *to the facility in excess of five thousand dollars (\$5,000) without*
6 *the approval of the director.*

7 *(l) (1) To the extent department funds are advanced for the*
8 *costs of the temporary manager or for other expenses in connection*
9 *with the temporary management, the department shall be*
10 *reimbursed from the revenues accruing to the facility or to the*
11 *licensee or an entity related to the licensee. Any reimbursement*
12 *received by the department shall be redeposited in the account*
13 *from which the department funds were advanced. If the revenues*
14 *are insufficient to reimburse the department, the unreimbursed*
15 *amount shall constitute a lien upon the assets of the facility or the*
16 *proceeds from the sale thereof. The lien against the personal assets*
17 *of the facility or an entity related to the licensee shall be filed with*
18 *the Secretary of State on the forms required for a notice of*
19 *judgment lien. A lien against the real property of the facility or an*
20 *entity related to the licensee shall be recorded with the county*
21 *recorder of the county where the facility of the licensee is located*
22 *or where the real property of the entity related to the licensee is*
23 *located. The lien shall not attach to the interests of a lessor, unless*
24 *the lessor is operating the facility. The authority to place a lien*
25 *against the personal and real property of the licensee for the*
26 *reimbursement of any state funds expended pursuant to this section*
27 *shall be given judgment creditor priority.*

28 *(2) For purposes of this section, “entity related to the licensee”*
29 *means an entity, other than a natural person, of which the licensee*
30 *is a subsidiary or an entity in which a person who was obligated*
31 *to disclose information under Section 1569.15 possesses an interest*
32 *that would also require disclosure pursuant to Section 1569.15.*

33 *(m) Appointment of a temporary manager under this section*
34 *does not relieve the licensee of any responsibility for the care and*
35 *supervision of residents under this chapter. The licensee, even if*
36 *the license is deemed surrendered or the facility abandoned, shall*
37 *be required to reimburse the department for all costs associated*
38 *with operation of the facility during the period the temporary*
39 *manager is in place that are not accounted for by using facility*
40 *revenues or for the relocation of residents handled by the*

1 department if the licensee fails to comply with the relocation
2 requirements of Section 1569.525 or 1569.682 when required by
3 the department to do so. If the licensee fails to reimburse the
4 department under this section, then the department, along with
5 using its own remedies available under this chapter, may request
6 that the Attorney General's office, the city attorney's office, or the
7 local district attorney's office seek any available criminal, civil,
8 or administrative remedy, including, but not limited to, injunctive
9 relief, restitution, and damages in the same manner as provided
10 for in Chapter 5 (commencing with Section 17200) of Part 2 of
11 Division 7 of the Business and Professions Code.

12 (n) The department may use funds from the emergency resident
13 contingency account pursuant to Section 1569.48 when needed to
14 supplement the operation of the facility or the transfer of residents
15 under the control of the temporary manager appointed under this
16 section if facility revenues are unavailable or exhausted when
17 needed. Pursuant to subdivision (l), the licensee shall be required
18 to reimburse the department for any funds used from the emergency
19 resident contingency account during the period of control of the
20 temporary manager and any incurred costs of collection.

21 (o) This section does not apply to a residential care facility for
22 the elderly that serves six or fewer persons and is also the principal
23 residence of the licensee.

24 (p) Notwithstanding any other provision of law, the temporary
25 manager shall be liable only for damages resulting from gross
26 negligence in the operation of the facility or intentional tortious
27 acts.

28 (q) All governmental immunities otherwise applicable to the
29 state shall also apply to the state in the use of a temporary manager
30 in the operation of a facility pursuant to this section.

31 (r) A licensee shall not be liable for any occurrences during the
32 temporary management under this section except to the extent that
33 the occurrences are the result of the licensee's conduct.

34 (s) The department may adopt regulations for the administration
35 of this section.

36 SEC. 25. Section 1569.482 is added to the Health and Safety
37 Code, to read:

38 1569.482. (a) It is the intent of the Legislature in enacting this
39 section to authorize the department to take quick, effective action
40 to protect the health and safety of residents of residential care

1 facilities for the elderly and to minimize the effects of transfer
2 trauma that accompany the abrupt transfer of residents through
3 a system whereby the department may apply for a court order
4 appointing a receiver to temporarily operate a residential care
5 facility for the elderly. The receivership is not intended to punish
6 a licensee or to replace attempts to secure cooperative action to
7 protect the residents' health and safety. The receivership is
8 intended to protect the residents in the absence of other reasonably
9 available alternatives. The receiver shall assume the operation of
10 the facility in order to bring it into compliance with law, facilitate
11 a transfer of ownership to a new licensee, or ensure the orderly
12 transfer of residents should the facility be required to close.

13 (b) (1) Whenever circumstances exist indicating that continued
14 management of a residential care facility by the current licensee
15 would present a substantial probability or imminent danger of
16 serious physical harm or death to the residents, or the facility is
17 closing or intends to terminate operation as a residential care
18 facility for the elderly and adequate arrangements for relocation
19 of residents have not been made at least 30 days prior to the
20 closing or termination, the director may petition the superior court
21 for the county in which the facility is located for an order
22 appointing a receiver to temporarily operate the facility in
23 accordance with this section.

24 (2) The petition shall allege the facts upon which the action is
25 based and shall be supported by an affidavit of the director. A
26 copy of the petition and affidavits, together with an order to appear
27 and show cause why temporary authority to operate the residential
28 care facility for the elderly should not be vested in a receiver
29 pursuant to this section, shall be delivered to the licensee,
30 administrator, or a responsible person at the facility to the
31 attention of the licensee and administrator. The order shall specify
32 a hearing date, which shall be not less than 10, nor more than 15,
33 days following delivery of the petition and order upon the licensee,
34 except that the court may shorten or lengthen the time upon a
35 showing of just cause.

36 (c) (1) If the director files a petition pursuant to subdivision
37 (b) for appointment of a receiver to operate a residential care
38 facility for the elderly, in accordance with Section 564 of the Code
39 of Civil Procedure, the director may also petition the court, in
40 accordance with Section 527 of the Code of Civil Procedure, for

1 *an order appointing a temporary receiver. A temporary receiver*
2 *appointed by the court pursuant to this subdivision shall serve*
3 *until the court has made a final determination on the petition for*
4 *appointment of a receiver filed pursuant to subdivision (b). A*
5 *receiver appointed pursuant to this subdivision shall have the same*
6 *powers and duties as a receiver would have if appointed pursuant*
7 *to subdivision (b). Upon the director filing a petition for a receiver,*
8 *the receiver shall complete its application for a provisional license*
9 *to operate a residential care facility for the elderly. For purposes*
10 *of a provisional license issued to a receiver, the licensee's existing*
11 *fire safety clearance shall serve as the fire safety clearance for*
12 *the receiver's provisional license.*

13 *(2) At the time of the hearing, the department shall advise the*
14 *licensee of the name of the proposed receiver. The receiver shall*
15 *be a certified residential care facility for the elderly administrator*
16 *or other responsible person or entity, as determined by the court,*
17 *from a list of qualified receivers established by the department,*
18 *and, if need be, with input from providers of residential care and*
19 *consumer representatives. Persons appearing on the list shall have*
20 *experience in the delivery of care services to clients of community*
21 *care facilities, and, if feasible, shall have experience with the*
22 *operation of a residential care facility for the elderly, shall not be*
23 *the subject of any pending actions by the department or any other*
24 *state agency, and shall not have ever been excluded from a*
25 *department licensed facility nor have had a license or certification*
26 *suspended or revoked by an administrative action by the*
27 *department or any other state agency. The receivers shall have*
28 *sufficient background and experience in management and finances*
29 *to ensure compliance with orders issued by the court. The owner,*
30 *licensee, or administrator shall not be appointed as the receiver*
31 *unless authorized by the court.*

32 *(3) If at the conclusion of the hearing, which may include oral*
33 *testimony and cross-examination at the option of any party, the*
34 *court determines that adequate grounds exist for the appointment*
35 *of a receiver and that there is no other reasonably available*
36 *remedy to protect the residents, the court may issue an order*
37 *appointing a receiver to temporarily operate the residential care*
38 *facility for the elderly and enjoining the licensee from interfering*
39 *with the receiver in the conduct of his or her duties. In these*
40 *proceedings, the court shall make written findings of fact and*

1 conclusions of law and shall require an appropriate bond to be
2 filed by the receiver and paid for by the licensee. The bond shall
3 be in an amount necessary to protect the licensee in the event of
4 any failure on the part of the receiver to act in a reasonable
5 manner. The bond requirement may be waived by the licensee.

6 (4) The court may permit the licensee to participate in the
7 continued operation of the facility during the pendency of any
8 receivership ordered pursuant to this section and shall issue an
9 order detailing the nature and scope of participation.

10 (5) Failure of the licensee to appear at the hearing on the
11 petition shall constitute an admission of all factual allegations
12 contained in the petition for purposes of these proceedings only.

13 (6) The licensee shall receive notice and a copy of the
14 application each time the receiver applies to the court or the
15 department for instructions regarding his or her duties under this
16 section, when an accounting pursuant to subdivision (i) is
17 submitted, and when any other report otherwise required under
18 this section is submitted. The licensee shall have an opportunity
19 to present objections or otherwise participate in those proceedings.

20 (d) A person shall not impede the operation of a receivership
21 created under this section. The receiver's access to, or possession
22 of, the property shall not be interfered with during the term of the
23 receivership. There shall be an automatic stay for a 60-day period
24 subsequent to the appointment of a receiver of any action that
25 would interfere with the functioning of the facility, including, but
26 not limited to, cancellation of insurance policies executed by the
27 licensees, termination of utility services, attachments, or setoffs
28 of resident trust funds and working capital accounts and
29 repossession of equipment in the facility.

30 (e) When a receiver is appointed, the licensee may, at the
31 discretion of the court, be divested of possession and control of
32 the facility in favor of the receiver. If the court divests the licensee
33 of possession and control of the facility in favor of the receiver,
34 the department shall immediately issue a provisional license to
35 the receiver. Notwithstanding the applicable sections of this code
36 governing the revocation of a provisional license, the provisional
37 license issued to a receiver shall automatically expire upon the
38 termination of the receivership. The receiver shall possess the
39 provisional license solely for purposes of carrying out the
40 responsibilities authorized by this section and the duties ordered

1 *by the court. The receiver shall have no right to appeal the*
2 *expiration of the provisional license.*

3 *(f) A receiver appointed pursuant to this section:*

4 *(1) May exercise those powers and shall perform those duties*
5 *ordered by the court, in addition to other duties provided by statute.*

6 *(2) Shall operate the facility in a manner that ensures the safety*
7 *and adequate care for the residents.*

8 *(3) Shall have the same rights to possession of the building in*
9 *which the facility is located, and of all goods and fixtures in the*
10 *building at the time the petition for receivership is filed, as the*
11 *licensee and administrator would have had if the receiver had not*
12 *been appointed.*

13 *(4) May use the funds, building, fixtures, furnishings, and any*
14 *accompanying consumable goods in the provision of care and*
15 *services to residents and to any other persons receiving services*
16 *from the facility at the time the petition for receivership was filed.*

17 *(5) Shall take title to all revenue coming to the facility in the*
18 *name of the receiver who shall use it for the following purposes*
19 *in descending order of priority:*

20 *(A) To pay wages to staff. The receiver shall have full power to*
21 *hire, direct, manage, and discharge employees of the facility,*
22 *subject to any contractual rights they may have. The receiver shall*
23 *pay employees at the same rate of compensation, including benefits,*
24 *that the employees would have received from the licensee or wages*
25 *necessary to provide adequate staff for the protection of the clients*
26 *and compliance with the law.*

27 *(B) To preserve resident funds. The receiver shall be entitled*
28 *to, and shall take, possession of all property or assets of residents*
29 *that are in the possession of the licensee or operator of the facility.*
30 *The receiver shall preserve all property, assets, and records of*
31 *residents of which the receiver takes possession.*

32 *(C) To contract for outside services as may be needed for the*
33 *operation of the residential care facility for the elderly. Any*
34 *contract for outside services in excess of five thousand dollars*
35 *(\$5,000) shall be approved by the court.*

36 *(D) To pay commercial creditors of the facility to the extent*
37 *required to operate the facility. Except as provided in subdivision*
38 *(h), the receiver shall honor all leases, mortgages, and secured*
39 *transactions affecting the building in which the facility is located*
40 *and all goods and fixtures in the building of which the receiver*

1 *has taken possession, but only to the extent of payments which, in*
2 *the case of a rental agreement, are for the use of the property*
3 *during the period of receivership, or which, in the case of a*
4 *purchase agreement, come due during the period of receivership.*

5 *(E) To receive a salary, as approved by the court.*

6 *(F) To do all things necessary and proper to maintain and*
7 *operate the facility in accordance with sound fiscal policies. The*
8 *receiver shall take action as is reasonably necessary to protect or*
9 *conserve the assets or property of which the receiver takes*
10 *possession and may use those assets or property only in the*
11 *performance of the powers and duties set out in this section and*
12 *by order of the court.*

13 *(G) To ask the court for direction in the treatment of debts*
14 *incurred prior to the appointment, if the licensee's debts appear*
15 *extraordinary, of questionable validity, or unrelated to the normal*
16 *and expected maintenance and operation of the facility, or if*
17 *payment of the debts will interfere with the purposes of*
18 *receivership.*

19 *(g) (1) A person who is served with notice of an order of the*
20 *court appointing a receiver and of the receiver's name and address*
21 *shall be liable to pay the receiver, rather than the licensee, for any*
22 *goods or services provided by the residential care facility for the*
23 *elderly after the date of the order. The receiver shall give a receipt*
24 *for each payment and shall keep a copy of each receipt on file.*
25 *The receiver shall deposit amounts received in a special account*
26 *and shall use this account for all disbursements. Payment to the*
27 *receiver pursuant to this subdivision shall discharge the obligation*
28 *to the extent of the payment and shall not thereafter be the basis*
29 *of a claim by the licensee or any other person. A resident shall not*
30 *be evicted nor may any contract or rights be forfeited or impaired,*
31 *nor may any forfeiture be effected or liability increased, by reason*
32 *of an omission to pay the licensee, operator, or other person a*
33 *sum paid to the receiver pursuant to this subdivision.*

34 *(2) This section shall not be construed to suspend, during the*
35 *temporary management by the receiver, any obligation of the*
36 *licensee for payment of local, state, or federal taxes. A licensee*
37 *shall not be held liable for acts or omissions of the receiver during*
38 *the term of the temporary management.*

39 *(3) Upon petition of the receiver, the court may order immediate*
40 *payment to the receiver for past services that have been rendered*

1 *and billed, and the court may also order a sum not to exceed one*
2 *month's advance payment to the receiver of any sums that may*
3 *become payable under the Medi-Cal program.*

4 *(h) (1) A receiver shall not be required to honor a lease,*
5 *mortgage, or secured transaction entered into by the licensee of*
6 *the facility and another party if the court finds that the agreement*
7 *between the parties was entered into for a collusive, fraudulent*
8 *purpose or that the agreement is unrelated to the operation of the*
9 *facility.*

10 *(2) A lease, mortgage, or secured transaction or an agreement*
11 *unrelated to the operation of the facility that the receiver is*
12 *permitted to dishonor pursuant to this subdivision shall only be*
13 *subject to nonpayment by the receiver for the duration of the*
14 *receivership, and the dishonoring of the lease, mortgage, security*
15 *interest, or other agreement, to this extent, by the receiver shall*
16 *not relieve the owner or operator of the facility from any liability*
17 *for the full amount due under the lease, mortgage, security interest,*
18 *or other agreement.*

19 *(3) If the receiver is in possession of real estate or goods subject*
20 *to a lease, mortgage, or security interest that the receiver is*
21 *permitted to avoid pursuant to paragraph (1), and if the real estate*
22 *or goods are necessary for the continued operation of the facility,*
23 *the receiver may apply to the court to set a reasonable rent, price,*
24 *or rate of interest to be paid by the receiver during the duration*
25 *of the receivership. The court shall hold a hearing on this*
26 *application within 15 days. The receiver shall send notice of the*
27 *application to any known owner of the property involved at least*
28 *10 days prior to the hearing.*

29 *(4) Payment by the receiver of the amount determined by the*
30 *court to be reasonable is a defense to any action against the*
31 *receiver for payment or possession of the goods or real estate,*
32 *subject to the lease or mortgage, which is brought by any person*
33 *who received the notice required by this subdivision. However,*
34 *payment by the receiver of the amount determined by the court to*
35 *be reasonable shall not relieve the owner or operator of the facility*
36 *from any liability for the difference between the amount paid by*
37 *the receiver and the amount due under the original lease,*
38 *mortgage, or security interest.*

39 *(i) A monthly accounting shall be made by the receiver to the*
40 *department of all moneys received and expended by the receiver*

1 on or before the 15th day of the following month or as ordered by
2 the court, and the remainder of income over expenses for that
3 month shall be returned to the licensee. A copy of the accounting
4 shall be provided to the licensee. The licensee or owner of the
5 residential care facility for the elderly may petition the court for
6 a determination as to the reasonableness of any expenditure made
7 pursuant to paragraph (5) of subdivision (f).

8 (j) (1) The receiver shall be appointed for an initial period of
9 not more than three months. The initial three-month period may
10 be extended for additional periods not exceeding three months, as
11 determined by the court pursuant to this section. At the end of one
12 month, the receiver shall report to the court on its assessment of
13 the probability that the residential care facility for the elderly will
14 meet state standards for operation by the end of the initial
15 three-month period and will continue to maintain compliance with
16 those standards after termination of the receiver's management.
17 If it appears that the facility cannot be brought into compliance
18 with state standards within the initial three-month period, the court
19 shall take appropriate action as follows:

20 (A) Extend the receiver's management for an additional three
21 months if there is a substantial likelihood that the facility will meet
22 state standards within that period and will maintain compliance
23 with the standards after termination of the receiver's management.
24 The receiver shall report to the court in writing upon the facility's
25 progress at the end of six weeks of any extension ordered pursuant
26 to this paragraph.

27 (B) Order the director to revoke or temporarily suspend, or
28 both, the license pursuant to Section 1569.50 and extend the
29 receiver's management for the period necessary to transfer clients
30 in accordance with the transfer plan, but for not more than three
31 months from the date of initial appointment of a receiver, or 14
32 days, whichever is greater. An extension of an additional three
33 months may be granted if deemed necessary by the court.

34 (2) If it appears at the end of six weeks of an extension ordered
35 pursuant to subparagraph (A) of paragraph (1) that the facility
36 cannot be brought into compliance with state standards for
37 operation or that it will not maintain compliance with those
38 standards after the receiver's management is terminated, the court
39 shall take appropriate action as specified in subparagraph (B) of
40 paragraph (1).

1 (3) *In evaluating the probability that a residential care facility*
2 *for the elderly will maintain compliance with state standards of*
3 *operation after the termination of receiver management ordered*
4 *by the court, the court shall consider at least the following factors:*

5 (A) *The duration, frequency, and severity of past violations in*
6 *the facility.*

7 (B) *History of compliance in other care facilities operated by*
8 *the proposed licensee.*

9 (C) *Efforts by the licensee to prevent and correct past violations.*

10 (D) *The financial ability of the licensee to operate in compliance*
11 *with state standards.*

12 (E) *The recommendations and reports of the receiver.*

13 (4) *Management of a residential care facility for the elderly*
14 *operated by a receiver pursuant to this section shall not be returned*
15 *to the licensee, to any person related to the licensee, or to any*
16 *person who served as a member of the facility's staff or who was*
17 *employed by the licensee prior to the appointment of the receiver*
18 *unless both of the following conditions are met:*

19 (A) *The department believes that it would be in the best interests*
20 *of the residents of the facility, requests that the court return the*
21 *operation of the facility to the former licensee, and provides clear*
22 *and convincing evidence to the court that it is in the best interests*
23 *of the facility's residents to take that action.*

24 (B) *The court finds that the licensee has fully cooperated with*
25 *the department in the appointment and ongoing activities of a*
26 *receiver appointed pursuant to this section, and, if applicable, any*
27 *temporary manager appointed pursuant to Section 1569.481.*

28 (5) *The owner of the facility may at any time sell, lease, or close*
29 *the facility, subject to the following provisions:*

30 (A) *If the owner closes the facility, or the sale or lease results*
31 *in the closure of the facility, the court shall determine if a transfer*
32 *plan is necessary. If the court so determines, the court shall adopt*
33 *and implement a transfer plan consistent with the provisions of*
34 *Section 1569.682.*

35 (B) *If the licensee proposes to sell or lease the facility and the*
36 *facility will continue to operate as a residential care facility for*
37 *the elderly, the court and the department shall reevaluate any*
38 *proposed transfer plan. If the court and the department determine*
39 *that the sale or lease of the facility will result in compliance with*
40 *licensing standards, the transfer plan and the receivership shall,*

1 *subject to those conditions that the court may impose and enforce,*
2 *be terminated upon the effective date of the sale or lease.*

3 *(k) (1) The salary of the receiver shall be set by the court*
4 *commensurate with community care facility industry standards,*
5 *giving due consideration to the difficulty of the duties undertaken,*
6 *and shall be paid from the revenue coming to the facility. If the*
7 *revenue is insufficient to pay the salary in addition to other*
8 *expenses of operating the facility, the receiver's salary shall be*
9 *paid from the emergency resident contingency account as provided*
10 *in Section 1569.48. State advances of funds in excess of five*
11 *thousand dollars (\$5,000) shall be approved by the director. Total*
12 *advances for encumbrances and expenditures shall not exceed the*
13 *sum of forty-nine thousand nine hundred ninety-nine dollars*
14 *(\$49,999) unless approved by the director in writing.*

15 *(2) To the extent state funds are advanced for the salary of the*
16 *receiver or for other expenses in connection with the receivership,*
17 *as limited by subdivision (g), the state shall be reimbursed from*
18 *the revenues accruing to the facility or to the licensee or an entity*
19 *related to the licensee. Any reimbursement received by the state*
20 *shall be redeposited in the account from which the state funds were*
21 *advanced. If the revenues are insufficient to reimburse the state,*
22 *the unreimbursed amount shall constitute a lien upon the assets*
23 *of the facility or the proceeds from the sale thereof. The lien against*
24 *the personal assets of the facility or an entity related to the licensee*
25 *shall be filed with the Secretary of State on the forms required for*
26 *a notice of judgment lien. A lien against the real property of the*
27 *facility or an entity related to the licensee shall be recorded with*
28 *the county recorder of the county where the facility of the licensee*
29 *is located or where the real property of the entity related to the*
30 *licensee is located. The lien shall not attach to the interests of a*
31 *lessor, unless the lessor is operating the facility.*

32 *(3) For purposes of this subdivision, "entity related to the*
33 *licensee" means an entity, other than a natural person, of which*
34 *the licensee is a subsidiary or an entity in which any person who*
35 *was obligated to disclose information under Section 1569.15*
36 *possesses an interest that would also require disclosure pursuant*
37 *to Section 1569.15.*

38 *(l) (1) This section does not impair the right of the owner of a*
39 *residential care facility for the elderly to dispose of his or her*
40 *property interests in the facility, but any facility operated by a*

1 receiver pursuant to this section shall remain subject to that
2 administration until terminated by the court. The termination shall
3 be promptly effectuated, provided that the interests of the residents
4 have been safeguarded as determined by the court.

5 (2) This section does not limit the power of the court to appoint
6 a receiver under any other applicable provision of law or to order
7 any other remedy available under law.

8 (m) (1) Notwithstanding any other provision of law, the receiver
9 shall be liable only for damages resulting from gross negligence
10 in the operation of the facility or intentional tortious acts.

11 (2) All governmental immunities otherwise applicable to the
12 State of California shall also apply in the use of a receiver in the
13 operation if a facility pursuant to this section.

14 (3) The licensee shall not be liable for any occurrences during
15 the receivership except to the extent that the occurrences are the
16 result of the licensee's conduct.

17 (n) The department may adopt regulations for the administration
18 of this section. This section does not impair the authority of the
19 department to temporarily suspend licenses under Section 1569.50
20 or to reach a voluntary agreement with the licensee for alternate
21 management of a community care facility including the use of a
22 temporary manager under Section 1569.481. This section does
23 not authorize the department to interfere in a labor dispute.

24 (o) This section does not apply to a residential care facility for
25 the elderly that serves six or fewer persons and is also the principal
26 residence of the licensee.

27 (p) This section does not apply to a licensee that has obtained
28 a certificate of authority to offer continuing care contracts, as
29 defined in paragraph (8) of subdivision (c) of Section 1771.

30 SEC. 26. Section 1569.525 of the Health and Safety Code is
31 amended to read:

32 1569.525. (a) If the director determines that it is necessary to
33 temporarily suspend or to revoke any license of a residential care
34 facility for the elderly in order to protect the residents or clients
35 of the facility from physical or mental abuse, abandonment, or any
36 other substantial threat to health or safety pursuant to Section
37 1569.50, the department shall make every effort to minimize
38 trauma for the residents.

39 (b) (1) (A) After a decision is made to temporarily suspend or,
40 upon an order, to revoke the license of a residential care facility

1 *for the elderly which is likely to result in closure of the facility,*
2 *the department shall contact both of the following:*

- 3 (i) *The Office of the State Long-Term Care Ombudsman.*
4 (ii) *Any local agency that may have placement or advocacy*
5 *responsibility for the residents of a residential care facility for the*
6 *elderly.*

7 ~~(b)~~
8 ~~(B) The department shall contact any local agency that may~~
9 ~~have placement or advocacy responsibility for the residents of a~~
10 ~~residential care facility for the elderly after a decision is made to~~
11 ~~temporarily suspend or to revoke the license of the facility and~~
12 ~~prior to its implementation. The department shall work with these~~
13 ~~agencies to work with these agencies, and the licensee if the~~
14 ~~director determines it to be appropriate, to locate alternative~~
15 ~~placement sites and to contact relatives or other persons~~
16 ~~responsible for the care of these residents, and to assist in the~~
17 ~~transfer of residents.~~

18 ~~(e)~~
19 (2) ~~The department shall use physicians and surgeons and other~~
20 ~~medical personnel appropriately skilled professionals deemed~~
21 ~~appropriate by the department to provide onsite evaluation of the~~
22 ~~residents and assist in any transfers.~~

23 ~~(d)~~
24 (3) ~~The department may~~ *shall* require the licensee to prepare
25 and submit to the licensing agency a written plan for relocation
26 and compliance with the terms and conditions of the approved
27 plans, and to provide other information as necessary for the
28 enforcement of this section.

29 (c) *Upon receipt of an order to temporarily suspend or revoke*
30 *a license, the licensee shall be prohibited from accepting new*
31 *residents or entering into admission agreements for new residents.*

32 (d) *Upon an order to temporarily suspend a license, the*
33 *following shall apply:*

34 (1) *The licensee shall immediately provide written notice of the*
35 *temporary suspension to the resident and initiate contact with the*
36 *resident's responsible person, if applicable.*

37 (2) *The department may secure, or permit the licensee to secure,*
38 *the services of a temporary manager who is not an immediate*
39 *family member of the licensee or an entity that is not owned by the*
40 *licensee to manage the day-to-day operations of the facility. The*

1 *temporary manager shall be appointed and assume operation of*
2 *the facility in accordance with Section 1569.481.*

3 (e) Upon an order to revoke a license, ~~except an order to revoke~~
4 a license following the temporary suspension of a license pursuant
5 to Section ~~1569.50~~, *1569.50 that led to the transfer of all residents,*
6 *the following shall apply:*

7 (1) The licensee shall provide a 60-day written notice of license
8 revocation that may lead to closure to the resident and the resident's
9 responsible person within 24 hours of receipt of the department's
10 order of revocation.

11 (2) The department shall permit the licensee to secure the
12 services of a ~~person~~ *temporary manager* who is not an immediate
13 family member of the licensee or an entity that is not owned by
14 the licensee to manage the day-to-day operations of the residential
15 care facility for the elderly for a period of at least 60 days, provided
16 that all of the following conditions are met:

17 (A) A proposal is submitted to the department within 72 hours
18 of the licensee's receipt of the department's order of revocation
19 that includes both of the following:

20 (i) A completed "Application for a Community Care Facility
21 or Residential Care Facility for the Elderly License" form (LIC
22 200), or similar form as determined by the department, signed and
23 dated by both the licensee and the person or entity described in
24 paragraph (2).

25 (ii) A copy of the executed agreement between the licensee and
26 the person or entity described in paragraph (2) that delineates the
27 roles and responsibilities of each party and specifies that the person
28 or entity described in paragraph (2) shall have the full authority
29 necessary to operate the facility, in compliance with all applicable
30 laws and regulations, and without interference from the licensee.

31 (B) The person or entity described in paragraph (2) shall be
32 currently licensed and in substantial compliance to operate a
33 residential care facility for the elderly that is of comparable size
34 or greater and has comparable programming to the facility. For
35 purposes of this subparagraph, the following definitions apply:

36 (i) "Comparable programming" includes, but is not limited to,
37 dementia care, hospice care, and care for residents with exempted
38 prohibited health care conditions.

39 (ii) "Comparable size" means a facility capacity of 1 to 15
40 residents, 16 to 49 residents, or 50 or more residents.

(C) The person or entity described in paragraph (2) shall not be subject to the application fee specified in Section 1569.185.

(D) If the department denies a proposal to secure the services of a person or entity pursuant to paragraph (2), this denial shall not be deemed a denial of a license application subject to the right to a hearing under Section 1569.22 and other procedural rights under Section 1569.51.

~~(3) (A)~~

~~(f) (1) Notwithstanding Section 1569.651 or any other provision of law, for paid preadmission fees in excess of five hundred dollars (\$500), fees, a resident who transfers from the facility during due to the 60-day period described in paragraph (1) notice of temporary suspension or revocation of subdivision (e) a license pursuant to this section is entitled to a refund in accordance with all of the following:~~

~~(i)~~

~~(A) A 100-percent refund if preadmission fees were paid within six months of the either notice of closure required by paragraph (1); this section.~~

~~(ii)~~

~~(B) A 75-percent refund if preadmission fees were paid more than six months, but not more than 12 months, before the either notice of closure required by paragraph (1); this section.~~

~~(iii)~~

~~(C) A 50-percent refund if preadmission fees were paid more than 12 months, but not more than 18 months, before the either notice of closure required by paragraph (1); this section.~~

~~(iv)~~

~~(D) A 25-percent refund if preadmission fees were paid more than 18 months, but not more than 25 months, before the either notice of closure required by paragraph (1); this section.~~

~~(B)~~

~~(2) No preadmission fee refund is required if preadmission fees were paid 25 months or more before the either notice of closure required by paragraph (1); this section.~~

~~(C)~~

~~(3) The preadmission fee refund required by this paragraph shall be paid within 15 days of issuing the either notice of closure required by paragraph (1); this section. In lieu of the refund, the resident may request that the licensee provide a credit toward the~~

resident's monthly fee obligation in an amount equal to the preadmission fee refund due.

(4) If a resident transfers from the facility ~~during due to the 60-day period described in paragraph (1)~~ *revocation of subdivision (e), a license*, and the resident gives notice at least five days before leaving the facility, *or if the transfer is due to a temporary suspension of the license order*, the licensee shall refund to the resident or his or her legal representative a proportional per diem amount of any prepaid monthly fees at the time the resident leaves the facility and the unit is vacated. Otherwise the licensee shall pay the refund within seven days from the date that the resident leaves the facility and the unit is vacated.

~~(5)~~

(g) ~~Within 10 days 24 hours after all residents~~ *each residence who are is transferring pursuant to these provisions have left the facility*, the licensee that had his or her license *temporarily suspended or revoked* shall, based on information provided by the resident or the resident's ~~legal representative~~, *responsible person*, submit a final list of names and new locations of all residents to the department and the local ombudsman program.

(h) *If at any point during or following a temporary suspension or revocation order of a license the director determines that there is a risk to the residents of a facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety, the department shall take any necessary action to minimize trauma for the residents, including, but not limited to, all of the following:*

(1) *Contact any local agency that may have placement or advocacy responsibility for the residents and work with those agencies to locate alternative placement sites.*

(2) *Contact the residents' relatives, legal representatives, authorized agents in a health care directive, or responsible parties.*

(3) *Assist in the transfer of residents, and, if necessary, arrange or coordinate transportation.*

(4) *Provide onsite evaluation of the residents and use any medical personnel deemed appropriate by the department to provide onsite evaluation of the residents and assist in any transfers.*

(5) *Arrange for or coordinate care and supervision.*

(6) *Arrange for the distribution of medications.*

(7) *Arrange for the preparation and service of meals and snacks.*

1 (8) Arrange for the preparation of the residents' records and
2 medications for transfer of each resident.

3 (9) Assist in any way necessary to facilitate a safe transfer of
4 all residents.

5 (10) Check on the status of each transferred resident within 24
6 hours of transfer.

7 (i) The participation of the department and local agencies in
8 the relocation of residents from a residential care facility for the
9 elderly shall not relieve the licensee of any responsibility under
10 this section. A licensee that fails to comply with the requirements
11 of this section shall be required to reimburse the department and
12 local agencies for the cost of providing those services. If the
13 licensee fails to provide the services required in this section, the
14 department shall request that the Attorney General's office, the
15 city attorney's office, or the local district attorney's office seek
16 injunctive relief and damages.

17 (j) Notwithstanding Section 1569.49, a licensee who fails to
18 comply with the requirements of this section shall be liable for
19 civil penalties in the amount of five hundred dollars (\$500) per
20 violation per day for each day that the licensee is in violation of
21 this section, until the violation has been corrected. The civil
22 penalties shall be issued immediately following the written notice
23 of violation.

24 ~~(f) Nothing in this~~

25 (k) This section shall not preclude the department from amending
26 the effective date in the order of suspension or revocation of a
27 license and closing the facility prior to the end of the 60-day notice
28 period provided for in subdivision (e), facility, or from pursuing
29 any other available remedies if necessary to protect the health and
30 safety of the residents in care.

31 SEC. 27. Section 1569.682 of the Health and Safety Code is
32 amended to read:

33 1569.682. (a) A licensee of a licensed residential care facility
34 for the elderly shall, prior to transferring a resident of the facility
35 to another facility or to an independent living arrangement as a
36 result of the forfeiture of a license, as described in subdivision (a),
37 (b), or (f) of Section 1569.19, or a change of use of the facility
38 pursuant to the department's regulations, take all reasonable steps
39 to transfer affected residents safely and to minimize possible
40 transfer trauma, and shall, at a minimum, do all of the following:

1 (1) Prepare, for each resident, a relocation evaluation of the
2 needs of that resident, which shall include both of the following:

3 (A) Recommendations on the type of facility that would meet
4 the needs of the resident based on the current service plan.

5 (B) A list of facilities, within a 60-mile radius of the resident's
6 current facility, that meet the resident's present needs.

7 (2) Provide each resident or the resident's responsible person
8 with a written notice no later than 60 days before the intended
9 eviction. The notice shall include all of the following:

10 (A) The reason for the eviction, with specific facts to permit a
11 determination of the date, place, witnesses, and circumstances
12 concerning the reasons.

13 (B) A copy of the resident's current service plan.

14 (C) The relocation evaluation.

15 (D) A list of referral agencies.

16 (E) The right of the resident or resident's legal representative
17 to contact the department to investigate the reasons given for the
18 eviction pursuant to Section 1569.35.

19 (F) The contact information for the local long-term care
20 ombudsman, including address and telephone number.

21 (3) Discuss the relocation evaluation with the resident and his
22 or her legal representative within 30 days of issuing the notice of
23 eviction.

24 (4) Submit a written report of any eviction to the licensing
25 agency within five days.

26 (5) Upon issuing the written notice of eviction, a licensee shall
27 not accept new residents or enter into new admission agreements.

28 (6) (A) For paid preadmission fees in excess of five hundred
29 dollars (\$500), the resident is entitled to a refund in accordance
30 with all of the following:

31 (i) A 100-percent refund if preadmission fees were paid within
32 six months of notice of eviction.

33 (ii) A 75-percent refund if preadmission fees were paid more
34 than ~~6~~ six months but not more than 12 months before notice of
35 eviction.

36 (iii) A 50-percent refund if preadmission fees were paid more
37 than 12 months but not more than 18 months before notice of
38 eviction.

39 (iv) A 25-percent refund if preadmission fees were paid more
40 than 18 months but less than 25 months before notice of eviction.

1 (B) No preadmission refund is required if preadmission fees
2 were paid 25 months or more before the notice of eviction.

3 (C) The preadmission refund required by this paragraph shall
4 be paid within 15 days of issuing the eviction notice. In lieu of the
5 refund, the resident may request that the licensee provide a credit
6 toward the resident's monthly fee obligation in an amount equal
7 to the preadmission fee refund due.

8 (7) If the resident gives notice five days before leaving the
9 facility, the licensee shall refund to the resident or his or her legal
10 representative a proportional per diem amount of any prepaid
11 monthly fees at the time the resident leaves the facility and the
12 unit is vacated. Otherwise the licensee shall pay the refund within
13 seven days from the date that the resident leaves the facility and
14 the unit is vacated.

15 (8) Within 10 days of all residents having left the facility, the
16 licensee, based on information provided by the resident or
17 resident's legal representative, shall submit a final list of names
18 and new locations of all residents to the department and the local
19 ombudsman program.

20 (b) If seven or more residents of a residential care facility for
21 the elderly will be transferred as a result of the forfeiture of a
22 license or change in the use of the facility pursuant to subdivision
23 (a), the licensee shall submit a proposed closure plan to the
24 department for approval. The department shall approve or
25 disapprove the closure plan, and monitor its implementation, in
26 accordance with the following requirements:

27 (1) Upon submission of the closure plan, the licensee shall be
28 prohibited from accepting new residents and entering into new
29 admission agreements for new residents.

30 (2) The closure plan shall meet the requirements described in
31 subdivision (a), and describe the staff available to assist in the
32 transfers. The department's review shall include a determination
33 as to whether the licensee's closure plan contains a relocation
34 evaluation for each resident.

35 (3) Within 15 working days of receipt, the department shall
36 approve or disapprove the closure plan prepared pursuant to this
37 subdivision, and, if the department approves the plan, it shall
38 become effective upon the date the department grants its written
39 approval of the plan.

1 (4) If the department disapproves a closure plan, the licensee
2 may resubmit an amended plan, which the department shall
3 promptly either approve or disapprove, within 10 working days
4 of receipt by the department of the amended plan. If the department
5 fails to approve a closure plan, it shall inform the licensee, in
6 writing, of the reasons for the disapproval of the plan.

7 (5) If the department fails to take action within 20 working days
8 of receipt of either the original or the amended closure plan, the
9 plan, or amended plan, as the case may be, shall be deemed
10 approved.

11 (6) Until such time that the department has approved a licensee's
12 closure plan, the facility shall not issue a notice of transfer or
13 require any resident to transfer.

14 (7) Upon approval by the department, the licensee shall send a
15 copy of the closure plan to the local ombudsman program.

16 (c) (1) If a licensee fails to comply with the requirements of
17 ~~subdivision (a), this section~~, and if the director determines that it
18 is necessary to protect the residents of a facility from physical or
19 mental abuse, abandonment, or any other substantial threat to
20 health or safety, the department shall take any necessary action to
21 minimize trauma for the ~~residents~~. *residents, including caring for*
22 *the residents through the use of a temporary manager as provided*
23 *for in Section 1569.481 when the director determines the immediate*
24 *relocation of the residents is not feasible based on transfer trauma*
25 *or other considerations such as the unavailability of alternative*
26 *placements.* The department shall contact any local agency that
27 may have ~~placement~~ *assessment placement, protective, or advocacy*
28 responsibility for the residents, and shall work *together* with those
29 agencies to locate alternative placement sites, contact relatives or
30 other persons responsible for the care of these residents, provide
31 onsite evaluation of the residents, and assist in the transfer of
32 residents.

33 (2) The participation of the department and local agencies in
34 the relocation of residents from a residential care facility for the
35 elderly shall not relieve the licensee of any responsibility under
36 this section. A licensee that fails to comply with the requirements
37 of this section shall be required to reimburse the department and
38 local agencies for the cost of providing the relocation ~~services~~.
39 *services or the costs incurred in caring for the residents through*
40 *the use of a temporary manager as provided for in Section*

1 1569.481. If the licensee fails to provide the relocation services
2 required in ~~subdivisions (a) and (b)~~, *this section*, then the
3 department may request that the Attorney General's office, the
4 city attorney's office, or the local district attorney's office seek
5 injunctive relief and damages in the same manner as provided for
6 in Chapter 5 (commencing with Section 17200) of Part 2 of
7 Division 7 of the Business and Professions ~~Code~~. *Code, including*
8 *restitution to the department of any costs incurred in caring for*
9 *the residents through the use of a temporary manager as provided*
10 *for in Section 1569.481.*

11 (d) A licensee who fails to comply with requirements of this
12 section shall be liable for the imposition of civil penalties in the
13 amount of one hundred dollars (\$100) per violation per day for
14 each day that the licensee is in violation of this section, until such
15 time that the violation has been corrected. The civil penalties shall
16 be issued immediately following the written notice of violation.
17 However, if the violation does not present an immediate or
18 substantial threat to the health or safety of residents and the licensee
19 corrects the violation within three days after receiving the notice
20 of violation, the licensee shall not be liable for payment of any
21 civil penalties pursuant to this subdivision related to the corrected
22 violation.

23 (e) A resident of a residential care facility for the elderly covered
24 under this section, may bring a civil action against any person,
25 firm, partnership, or corporation who owns, operates, establishes,
26 manages, conducts, or maintains a residential care facility for the
27 elderly who violates the rights of a resident, as set forth in this
28 section. Any person, firm, partnership, or corporation who owns,
29 operates, establishes, manages, conducts, or maintains a residential
30 care facility for the elderly who violates this section shall be
31 responsible for the acts of the facility's employees and shall be
32 liable for costs and attorney's fees. Any such residential care
33 facility for the elderly may also be enjoined from permitting the
34 violation to continue. The remedies specified in this section shall
35 be in addition to any other remedy provided by law.

36 (f) This section shall not apply to a licensee that has obtained
37 a certificate of authority to offer continuing care contracts, as
38 defined in paragraph (8) of subdivision (c) of Section 1771.

39 *SEC. 28. Section 1596.803 of the Health and Safety Code is*
40 *amended to read:*

1596.803. (a) (1) An application fee adjusted by facility and capacity shall be charged by the department for the issuance of a license to operate a child day care facility. After initial licensure, a fee shall be charged by the department annually, on each anniversary of the effective date of the license. The fees are for the purpose of financing activities specified in this chapter. Fees shall be assessed as follows: ~~as follows~~, subject to paragraph (2):

Fee Schedule

Facility Type	Capacity	Original Application	Annual Fee
Family Day Care	1–8	\$66	\$66
		\$73	\$73
	9–14	\$127	\$127
Day Care Centers	1–30	\$140	\$140
		\$440	\$220
	31–60	\$484	\$242
		\$880	\$440
	61–75	\$968	\$484
		\$1,100	\$550
	76–90	\$1,210	\$605
		\$1,320	\$660
	91–120	\$1,452	\$726
		\$1,760	\$880
	121+	\$1,936	\$968
		\$2,200	\$1,100
		\$2,420	\$1,210

(2) (A) The Legislature finds that all revenues generated by fees for licenses computed under this section and used for the purposes for which they were imposed are not subject to Article XIII B of the California Constitution.

(B) The department, at least every five years, shall analyze initial application fees and annual fees issued by it to ensure the appropriate fee amounts are charged. The department shall recommend to the Legislature that fees established by the Legislature be adjusted as necessary to ensure that the amounts are appropriate.

(b) (1) In addition to fees set forth in subdivision (a), the department shall charge the following fees:

1 (A) A fee that represents 50 percent of an established application
2 fee when an existing licensee moves the facility to a new physical
3 address.

4 (B) A fee that represents 50 percent of the established
5 application fee when a corporate licensee changes who has the
6 authority to select a majority of the board of directors.

7 (C) A fee of twenty-five dollars (\$25) when an existing licensee
8 seeks to either increase or decrease the licensed capacity of the
9 facility.

10 (D) An orientation fee of twenty-five dollars (\$25) for
11 attendance by any individual at a department-sponsored family
12 child day care home orientation session, and a fifty dollar (\$50)
13 orientation fee for attendance by any individual at a
14 department-sponsored child day care center orientation session.

15 (E) A probation monitoring fee equal to the *current* annual fee,
16 in addition to the *current* annual fee for that category and capacity
17 for each year a license has been placed on probation as a result of
18 a stipulation or decision and order pursuant to the administrative
19 adjudication procedures of the Administrative Procedure Act
20 (Chapter 4.5 (commencing with Section 11400) and Chapter 5
21 (commencing with Section 11500) of Part 1 of Division 3 of Title
22 2 of the Government Code).

23 (F) A late fee that represents an additional 50 percent of the
24 established *current* annual fee when any licensee fails to pay the
25 *current* annual licensing fee on or before the due date as indicated
26 by postmark on the payment.

27 (G) A fee to cover any costs incurred by the department for
28 processing payments including, but not limited to, bounced check
29 charges, charges for credit and debit transactions, and postage due
30 charges.

31 (H) A plan of correction fee of two hundred dollars (\$200) when
32 any licensee does not implement a plan of correction on or prior
33 to the date specified in the plan.

34 (2) No local jurisdiction shall impose any business license, fee,
35 or tax for the privilege of operating a small family day care home
36 licensed under this act.

37 (c) (1) The revenues collected from licensing fees pursuant to
38 this section shall be utilized by the department for the purpose of
39 ensuring the health and safety of all individuals provided care and
40 supervision by licensees, and to support the activities of the

1 licensing program, including, but not limited to, monitoring
2 facilities for compliance with licensing laws and regulations
3 pursuant to this act, and other administrative activities in support
4 of the licensing program, when appropriated for these purposes.
5 The revenues collected shall be used in addition to any other funds
6 appropriated in the annual Budget Act in support of the licensing
7 program. *The department shall adjust the fees collected pursuant*
8 *to this section as necessary to ensure they do not exceed the costs*
9 *described in this paragraph.*

10 (2) The department shall not utilize any portion of these revenues
11 sooner than 30 days after notification in writing of the purpose
12 and use, as approved by the Department of Finance, to the
13 Chairperson of the Joint Legislative Budget Committee, and the
14 chairpersons of the committee in each house that considers
15 appropriations for each fiscal year. The department shall submit
16 a budget change proposal to justify any positions or any other
17 related support costs on an ongoing basis.

18 (d) A child day care facility may use a bona fide business or
19 personal check to pay the license fee required under this section.

20 (e) The failure of an applicant for licensure or a licensee to pay
21 all applicable and accrued fees and civil penalties shall constitute
22 grounds for denial or forfeiture of a license.

23 SEC. 29. *Section 1596.871 of the Health and Safety Code is*
24 *amended to read:*

25 1596.871. The Legislature recognizes the need to generate
26 timely and accurate positive fingerprint identification of applicants
27 as a condition of issuing licenses, permits, or certificates of
28 approval for persons to operate or provide direct care services in
29 a child care center or family child care home. It is the intent of the
30 Legislature in enacting this section to require the fingerprints of
31 those individuals whose contact with child day care facility clients
32 may pose a risk to the children's health and safety. An individual
33 shall be required to obtain either a criminal record clearance or a
34 criminal record exemption from the State Department of Social
35 Services before his or her initial presence in a child day care
36 facility.

37 (a) (1) Before issuing a license or special permit to any person
38 to operate or manage a day care facility, the department shall secure
39 from an appropriate law enforcement agency a criminal record to
40 determine whether the applicant or any other person specified in

1 subdivision (b) has ever been convicted of a crime other than a
2 minor traffic violation or arrested for any crime specified in
3 subdivision (c) of Section 290 of the Penal Code, for violating
4 Section 245 or 273.5, subdivision (b) of Section 273a or, prior to
5 January 1, 1994, paragraph (2) of Section 273a of the Penal Code,
6 or for any crime for which the department cannot grant an
7 exemption if the person was convicted and the person has not been
8 exonerated.

9 (2) The criminal history information shall include the full
10 criminal record, if any, of those persons, and subsequent arrest
11 information pursuant to Section 11105.2 of the Penal Code.

12 (3) Except during the 2003–04 to the 2014–15 fiscal years,
13 inclusive, neither the Department of Justice nor the department
14 may charge a fee for the fingerprinting of an applicant who will
15 serve six or fewer children or any family day care applicant for a
16 license, or for obtaining a criminal record of an applicant pursuant
17 to this section.

18 (4) The following shall apply to the criminal record information:

19 (A) If the State Department of Social Services finds that the
20 applicant or any other person specified in subdivision (b) has been
21 convicted of a crime, other than a minor traffic violation, the
22 application shall be denied, unless the director grants an exemption
23 pursuant to subdivision (f).

24 (B) If the State Department of Social Services finds that the
25 applicant, or any other person specified in subdivision (b), is
26 awaiting trial for a crime other than a minor traffic violation, the
27 State Department of Social Services may cease processing the
28 application until the conclusion of the trial.

29 (C) If no criminal record information has been recorded, the
30 Department of Justice shall provide the applicant and the State
31 Department of Social Services with a statement of that fact.

32 (D) If the State Department of Social Services finds after
33 licensure that the licensee, or any other person specified in
34 paragraph (2) of subdivision (b), has been convicted of a crime
35 other than a minor traffic violation, the license may be revoked,
36 unless the director grants an exemption pursuant to subdivision
37 (f).

38 (E) An applicant and any other person specified in subdivision
39 (b) shall submit fingerprint images and related information to the
40 Department of Justice and the Federal Bureau of Investigation,

1 through the Department of Justice, for a state and federal level
2 criminal offender record information search, in addition to the
3 search required by subdivision (a). If an applicant meets all other
4 conditions for licensure, except receipt of the Federal Bureau of
5 Investigation's criminal history information for the applicant and
6 persons listed in subdivision (b), the department may issue a license
7 if the applicant and each person described by subdivision (b) has
8 signed and submitted a statement that he or she has never been
9 convicted of a crime in the United States, other than a traffic
10 infraction as defined in paragraph (1) of subdivision (a) of Section
11 42001 of the Vehicle Code. If, after licensure, the department
12 determines that the licensee or person specified in subdivision (b)
13 has a criminal record, the license may be revoked pursuant to
14 Section 1596.885. The department may also suspend the license
15 pending an administrative hearing pursuant to Section 1596.886.

16 (b) (1) In addition to the applicant, this section shall be
17 applicable to criminal convictions of the following persons:

18 (A) Adults responsible for administration or direct supervision
19 of staff.

20 (B) Any person, other than a child, residing in the facility.

21 (C) Any person who provides care and supervision to the
22 children.

23 (D) Any staff person, volunteer, or employee who has contact
24 with the children.

25 (i) A volunteer providing time-limited specialized services shall
26 be exempt from the requirements of this subdivision if this person
27 is directly supervised by the licensee or a facility employee with
28 a criminal record clearance or exemption, the volunteer spends no
29 more than 16 hours per week at the facility, and the volunteer is
30 not left alone with children in care.

31 (ii) A student enrolled or participating at an accredited
32 educational institution shall be exempt from the requirements of
33 this subdivision if the student is directly supervised by the licensee
34 or a facility employee with a criminal record clearance or
35 exemption, the facility has an agreement with the educational
36 institution concerning the placement of the student, the student
37 spends no more than 16 hours per week at the facility, and the
38 student is not left alone with children in care.

1 (iii) A volunteer who is a relative, legal guardian, or foster parent
2 of a client in the facility shall be exempt from the requirements of
3 this subdivision.

4 (iv) A contracted repair person retained by the facility, if not
5 left alone with children in care, shall be exempt from the
6 requirements of this subdivision.

7 (v) Any person similar to those described in this subdivision,
8 as defined by the department in regulations.

9 (E) If the applicant is a firm, partnership, association, or
10 corporation, the chief executive officer, other person serving in
11 like capacity, or a person designated by the chief executive officer
12 as responsible for the operation of the facility, as designated by
13 the applicant agency.

14 (F) If the applicant is a local educational agency, the president
15 of the governing board, the school district superintendent, or a
16 person designated to administer the operation of the facility, as
17 designated by the local educational agency.

18 (G) Additional officers of the governing body of the applicant,
19 or other persons with a financial interest in the applicant, as
20 determined necessary by the department by regulation. The criteria
21 used in the development of these regulations shall be based on the
22 person's capability to exercise substantial influence over the
23 operation of the facility.

24 (H) This section does not apply to employees of child care and
25 development programs under contract with the State Department
26 of Education who have completed a criminal record clearance as
27 part of an application to the Commission on Teacher Credentialing,
28 and who possess a current credential or permit issued by the
29 commission, including employees of child care and development
30 programs that serve both children subsidized under, and children
31 not subsidized under, a State Department of Education contract.
32 The Commission on Teacher Credentialing shall notify the
33 department upon revocation of a current credential or permit issued
34 to an employee of a child care and development program under
35 contract with the State Department of Education.

36 (I) This section does not apply to employees of a child care and
37 development program operated by a school district, county office
38 of education, or community college district under contract with
39 the State Department of Education who have completed a criminal
40 record clearance as a condition of employment. The school district,

county office of education, or community college district upon receiving information that the status of an employee's criminal record clearance has changed shall submit that information to the department.

(2) Nothing in this subdivision shall prevent a licensee from requiring a criminal record clearance of any individuals exempt from the requirements under this subdivision.

(c) (1) (A) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit fingerprint images and related information to the Department of Justice and the Federal Bureau of Investigation, through the Department of Justice, or to comply with paragraph (1) of subdivision (h), prior to the person's employment, residence, or initial presence in the child day care facility.

(B) ~~These fingerprint images for the purpose of obtaining a permanent set of fingerprints and related information shall be electronically submitted to the Department of Justice in a manner approved by the State Department of Social Services and the Department of Justice for the purpose of obtaining a permanent set of fingerprints. A licensee's failure to submit fingerprint images and related information to the Department of Justice, Justice or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency, and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation per day for a maximum of five days, unless the violation is a second or subsequent violation within a 12-month period in which case the civil penalties shall be in the amount of one hundred dollars (\$100) per violation for a maximum of 30 days, and shall be grounds for disciplining the licensee pursuant to Section 1596.885 or Section 1596.886. The State Department of Social Services may assess civil penalties for repeated or continued violations permitted by Sections 1596.99 and 1597.62. 1597.58. The fingerprint images and related information shall then be submitted to the department for processing. Within 14 calendar days of the receipt of the fingerprint images, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided in this subdivision. If no~~

1 criminal record information has been recorded, the Department of
2 Justice shall provide the licensee and the State Department of
3 Social Services with a statement of that fact within 14 calendar
4 days of receipt of the fingerprint images. If new fingerprint images
5 are required for processing, the Department of Justice shall, within
6 14 calendar days from the date of receipt of the fingerprint images,
7 notify the licensee that the fingerprints were illegible.

8 (C) Documentation of the individual's clearance or exemption
9 shall be maintained by the licensee, and shall be available for
10 inspection. When live-scan technology is operational, as defined
11 in Section 1522.04, the Department of Justice shall notify the
12 department, as required by that section, and notify the licensee by
13 mail within 14 days of electronic transmission of the fingerprints
14 to the Department of Justice, if the person has no criminal record.
15 Any violation of the regulations adopted pursuant to Section
16 1522.04 shall result in the citation of a deficiency and an immediate
17 assessment of civil penalties in the amount of one hundred dollars
18 (\$100) per violation per day for a maximum of five days, unless
19 the violation is a second or subsequent violation within a 12-month
20 period in which case the civil penalties shall be in the amount of
21 one hundred dollars (\$100) per violation for a maximum of 30
22 days, and shall be grounds for disciplining the licensee pursuant
23 to Section 1596.885 or Section 1596.886. The department may
24 assess civil penalties for *repeated or* continued violations, as
25 permitted by Sections 1596.99 and ~~1597.62~~. 1597.58.

26 (2) Except for persons specified in paragraph (2) of subdivision
27 (b), the licensee shall endeavor to ascertain the previous
28 employment history of persons required to be fingerprinted under
29 this subdivision. If it is determined by the department, on the basis
30 of fingerprints submitted to the Department of Justice, that the
31 person has been convicted of a sex offense against a minor, an
32 offense specified in Section 243.4, 273a, 273d, 273g, or 368 of
33 the Penal Code, or a felony, the State Department of Social
34 Services shall notify the licensee to act immediately to terminate
35 the person's employment, remove the person from the child day
36 care facility, or bar the person from entering the child day care
37 facility. The department may subsequently grant an exemption
38 pursuant to subdivision (f). If the conviction was for another crime
39 except a minor traffic violation, the licensee shall, upon notification
40 by the State Department of Social Services, act immediately to

1 either (1) terminate the person's employment, remove the person
2 from the child day care facility, or bar the person from entering
3 the child day care facility; or (2) seek an exemption pursuant to
4 subdivision (f). The department shall determine if the person shall
5 be allowed to remain in the facility until a decision on the
6 exemption is rendered. A licensee's failure to comply with the
7 department's prohibition of employment, contact with clients, or
8 presence in the facility as required by this paragraph shall result
9 in a citation of deficiency and an immediate assessment of civil
10 penalties by the department against the licensee, in the amount of
11 one hundred dollars (\$100) per violation per day for a maximum
12 of five days, unless the violation is a second or subsequent violation
13 within a 12-month period in which case the civil penalties shall
14 be in the amount of one hundred dollars (\$100) per violation for
15 a maximum of 30 days, and shall be grounds for disciplining the
16 licensee pursuant to Section 1596.885 or 1596.886.

17 (3) The department may issue an exemption on its own motion
18 pursuant to subdivision (f) if the person's criminal history indicates
19 that the person is of good character based on the age, seriousness,
20 and frequency of the conviction or convictions. The department,
21 in consultation with interested parties, shall develop regulations
22 to establish the criteria to grant an exemption pursuant to this
23 paragraph.

24 (4) Concurrently with notifying the licensee pursuant to
25 paragraph (3), the department shall notify the affected individual
26 of his or her right to seek an exemption pursuant to subdivision
27 (f). The individual may seek an exemption only if the licensee
28 terminates the person's employment or removes the person from
29 the facility after receiving notice from the department pursuant to
30 paragraph (3).

31 (d) (1) For purposes of this section or any other provision of
32 this chapter, a conviction means a plea or verdict of guilty or a
33 conviction following a plea of nolo contendere. Any action that
34 the department is permitted to take following the establishment of
35 a conviction may be taken when the time for appeal has elapsed,
36 when the judgment of conviction has been affirmed on appeal, or
37 when an order granting probation is made suspending the
38 imposition of sentence, notwithstanding a subsequent order
39 pursuant to Sections 1203.4 and 1203.4a of the Penal Code
40 permitting the person to withdraw his or her plea of guilty and to

1 enter a plea of not guilty, or setting aside the verdict of guilty, or
2 dismissing the accusation, information, or indictment. For purposes
3 of this section or any other provision of this chapter, the record of
4 a conviction, or a copy thereof certified by the clerk of the court
5 or by a judge of the court in which the conviction occurred, shall
6 be conclusive evidence of the conviction. For purposes of this
7 section or any other provision of this chapter, the arrest disposition
8 report certified by the Department of Justice, or documents
9 admissible in a criminal action pursuant to Section 969b of the
10 Penal Code, shall be prima facie evidence of conviction,
11 notwithstanding any other provision of law prohibiting the
12 admission of these documents in a civil or administrative action.

13 (2) For purposes of this section or any other provision of this
14 chapter, the department shall consider criminal convictions from
15 another state or federal court as if the criminal offense was
16 committed in this state.

17 (e) The State Department of Social Services may not use a
18 record of arrest to deny, revoke, or terminate any application,
19 license, employment, or residence unless the department
20 investigates the incident and secures evidence, whether or not
21 related to the incident of arrest, that is admissible in an
22 administrative hearing to establish conduct by the person that may
23 pose a risk to the health and safety of any person who is or may
24 become a client. The State Department of Social Services is
25 authorized to obtain any arrest or conviction records or reports
26 from any law enforcement agency as necessary to the performance
27 of its duties to inspect, license, and investigate community care
28 facilities and individuals associated with a community care facility.

29 (f) (1) After review of the record, the director may grant an
30 exemption from disqualification for a license or special permit as
31 specified in paragraphs (1) and (4) of subdivision (a), or for
32 employment, residence, or presence in a child day care facility as
33 specified in paragraphs (3), (4), and (5) of subdivision (c) if the
34 director has substantial and convincing evidence to support a
35 reasonable belief that the applicant and the person convicted of
36 the crime, if other than the applicant, are of good character so as
37 to justify issuance of the license or special permit or granting an
38 exemption for purposes of subdivision (c). However, an exemption
39 may not be granted pursuant to this subdivision if the conviction
40 was for any of the following offenses:

1 (A) An offense specified in Section 220, 243.4, or 264.1,
2 subdivision (a) of Section 273a or, prior to January 1, 1994,
3 paragraph (1) of Section 273a, Section 273d, 288, or 289,
4 subdivision (c) of Section 290, or Section 368 of the Penal Code,
5 or was a conviction of another crime against an individual specified
6 in subdivision (c) of Section 667.5 of the Penal Code.

7 (B) A felony offense specified in Section 729 of the Business
8 and Professions Code or Section 206 or 215, subdivision (a) of
9 Section 347, subdivision (b) of Section 417, or subdivision (a) or
10 (b) of Section 451 of the Penal Code.

11 (2) The department may not prohibit a person from being
12 employed or having contact with clients in a facility on the basis
13 of a denied criminal record exemption request or arrest information
14 unless the department complies with the requirements of Section
15 1596.8897.

16 (g) Upon request of the licensee, who shall enclose a
17 self-addressed stamped postcard for this purpose, the Department
18 of Justice shall verify receipt of the fingerprint images.

19 (h) (1) For the purposes of compliance with this section, the
20 department may permit an individual to transfer a current criminal
21 record clearance, as defined in subdivision (a), from one facility
22 to another, as long as the criminal record clearance has been
23 processed through a state licensing district office, and is being
24 transferred to another facility licensed by a state licensing district
25 office. The request shall be in writing to the department, and shall
26 include a copy of the person's driver's license or valid
27 identification card issued by the Department of Motor Vehicles,
28 or a valid photo identification issued by another state or the United
29 States government if the person is not a California resident. Upon
30 request of the licensee, who shall enclose a self-addressed stamped
31 envelope for this purpose, the department shall verify whether the
32 individual has a clearance that can be transferred.

33 (2) The State Department of Social Services shall hold criminal
34 record clearances in its active files for a minimum of two years
35 after an employee is no longer employed at a licensed facility in
36 order for the criminal record clearances to be transferred.

37 (3) The following shall apply to a criminal record clearance or
38 exemption from the department or a county office with
39 department-delegated licensing authority:

1 (A) A county office with department-delegated licensing
2 authority may accept a clearance or exemption from the
3 department.

4 (B) The department may accept a clearance or exemption from
5 any county office with department-delegated licensing authority.

6 (C) A county office with department-delegated licensing
7 authority may accept a clearance or exemption from any other
8 county office with department-delegated licensing authority.

9 (4) With respect to notifications issued by the Department of
10 Justice pursuant to Section 11105.2 of the Penal Code concerning
11 an individual whose criminal record clearance was originally
12 processed by the department or a county office with
13 department-delegated licensing authority, all of the following shall
14 apply:

15 (A) The Department of Justice shall process a request from the
16 department or a county office with department-delegated licensing
17 authority to receive the notice, only if all of the following
18 conditions are met:

19 (i) The request shall be submitted to the Department of Justice
20 by the agency to be substituted to receive the notification.

21 (ii) The request shall be for the same applicant type as the type
22 for which the original clearance was obtained.

23 (iii) The request shall contain all prescribed data elements and
24 format protocols pursuant to a written agreement between the
25 department and the Department of Justice.

26 (B) (i) On or before January 7, 2005, the department shall notify
27 the Department of Justice of all county offices that have
28 department-delegated licensing authority.

29 (ii) The department shall notify the Department of Justice within
30 15 calendar days of the date on which a new county office receives
31 department-delegated licensing authority or a county's delegated
32 licensing authority is rescinded.

33 (C) The Department of Justice shall charge the department or
34 a county office with department-delegated licensing authority a
35 fee for each time a request to substitute the recipient agency is
36 received for purposes of this paragraph. This fee shall not exceed
37 the cost of providing the service.

38 (i) Notwithstanding any other provision of law, the department
39 may provide an individual with a copy of his or her state or federal
40 level criminal offender record information search response as

provided to that department by the Department of Justice if the department has denied a criminal background clearance based on this information and the individual makes a written request to the department for a copy specifying an address to which it is to be sent. The state or federal level criminal offender record information search response shall not be modified or altered from its form or content as provided by the Department of Justice and shall be provided to the address specified by the individual in his or her written request. The department shall retain a copy of the individual's written request and the response and date provided.

SEC. 30. Section 1796.12 of the Health and Safety Code is amended to read:

1796.12. For purposes of this chapter, the following definitions shall apply:

(a) "Affiliated home care aide" means an individual, 18 years of age or older, who is employed by a home care organization to provide home care services to a client and is listed on the home care aide registry.

(b) "Child" or "children" means an individual or individuals under 18 years of age.

(c) "Client" means an individual who receives home care services from a registered home care aide.

(d) "Department" means the State Department of Social Services.

(e) "Director" means the Director of Social Services.

(f) "Family member" means any spouse, by marriage or otherwise, *domestic partner*, child or stepchild, by natural birth or by adoption, parent, brother, sister, half-brother, half-sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or any person denoted by the prefix "grand" or "great," or the spouse of any of these persons, even if the marriage has been terminated by death or dissolution.

(g) "Home care aide applicant" means an individual, 18 years of age or older, who is requesting to become ~~an~~ a registered home care aide and the department has received and is processing the individual's complete home care aide application and ~~fees~~. *nonrefundable application fee*.

(h) "Home care aide application" means the official form, designated by the department, to request to become a registered home care aide.

(i) “Home care aide registry” means a department-established and department-maintained Internet Web site of registered home care aides and home care aide applicants, which includes all of the following: the individual’s name, registration number, registration status, registration expiration date, and, if applicable, the home care organization to which the affiliated home care aide or affiliated home care aide applicant is associated.

(j) “Home care organization” means an individual, 18 years of age or older, firm, partnership, corporation, limited liability company, joint venture, association, or other entity that arranges for home care services by an affiliated home care aide to a client, and is licensed pursuant to this chapter.

(k) “Home care organization applicant” means an individual, 18 years of age or older, or a firm, partnership, corporation, limited liability company, joint venture, association, or other entity where the individual or individuals applying for the license are 18 years of age or older and are requesting to become a home care organization licensee and the department has received and is processing the complete home care organization application and nonrefundable application fee.

~~(k)~~

(l) “Home care organization application” means the official form, designated by the department, to request to become a licensed home care organization.

~~(l)~~

(m) “Home care organization licensee” means an individual, 18 years of age or older, firm, partnership, corporation, limited liability company, joint venture, association, or other entity having the authority and responsibility for the operation *or management* of a licensed home care organization.

~~(m)~~

(n) “Home care services” means nonmedical services and assistance provided by a registered home care aide to a client who, because of advanced age or physical or mental disability, cannot perform these services. These services enable the client to remain in his or her residence and include, but are not limited to, assistance with the following: bathing, dressing, feeding, exercising, personal hygiene and grooming, transferring, ambulating, positioning, toileting and incontinence care, assisting with medication that the client self-administers, housekeeping, meal planning and

1 preparation, laundry, transportation, correspondence, making
2 telephone calls, shopping for personal care items or groceries, and
3 companionship. This subdivision shall not authorize a registered
4 home care aide to assist with medication that the client
5 self-administers that would otherwise require administration or
6 oversight by a licensed health care professional.

7 ~~(n)~~

8 (o) “Registered home care aide” means an affiliated home care
9 aide or independent home care aide, 18 years of age or older, who
10 is listed on the home care aide registry.

11 ~~(o)~~

12 (p) “Independent home care aide” means an individual, 18 years
13 of age or older, who is not employed by a home care organization,
14 but who is listed on the home care aide registry and is providing
15 home care services through a direct agreement with a client.

16 *SEC. 31. Section 1796.14 of the Health and Safety Code is*
17 *amended to read:*

18 1796.14. (a) Individuals who are not employed by a home care
19 organization but who provide home care services to a client may
20 be listed on the home care aide registry.

21 (b) An affiliated home care aide shall be listed on the home care
22 aide registry prior to providing home care services to a client.

23 ~~(c) An individual providing home care services to a child is~~
24 ~~exempt from any requirement to be listed on the home care aide~~
25 ~~registry if the individual is one of the following:~~

26 ~~(1) A family member of the child.~~

27 ~~(2) A guardian of the child.~~

28 ~~(3) A conservator of the child.~~

29 ~~(4) A foster parent of the child, in a foster family home, as~~
30 ~~defined in paragraph (5) of subdivision (a) of Section 1502, or a~~
31 ~~certified family home, as defined in subdivision (d) of Section~~
32 ~~1506.~~

33 ~~(5) Nonrelative extended family member, as defined in Section~~
34 ~~362.7 of the Welfare and Institutions Code.~~

35 ~~(6) Providing home care services in a facility in which only~~
36 ~~Indian children who are eligible under the federal Indian Child~~
37 ~~Welfare Act (25 U.S.C. 1901 et seq.) are placed and is one of the~~
38 ~~following:~~

39 ~~(A) An extended family member of the Indian child, as defined~~
40 ~~in Section 1903 of Title 25 of the United States Code.~~

~~(B) A foster home that is licensed, approved, or specified by the Indian child's tribe pursuant to Section 1915 of Title 25 of the United States Code.~~

~~(7) Providing home~~

(c) (1) Home care aides shall not include individuals who are providing home care services as part of his or her their job duties through one of the following entities:

~~(A) A Services authorized to be provided by a licensed home health agency licensed under Chapter 8 (commencing with Section 1725).~~

~~(B) A Services authorized to be provided by a licensed hospice licensed under pursuant to Chapter 8.5 (commencing with Section 1745).~~

~~(C) A Services authorized to be provided by a licensed health facility licensed under pursuant to Chapter 2 (commencing with Section 1250).~~

~~(D) Any clinic licensed under Sections 1204 or 1204.1.~~

~~(E) A county providing in-home~~

(D) In-home supportive services provided pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, without regard to whether the county provides these services as a public authority of, or through a nonprofit consortium established pursuant to Section 12301.6 of 14132.95, 14132.952, or 14132.956 of, the Welfare and Institutions Code.

(E) A community care facility licensed pursuant to Chapter 3 (commencing with Section 1500), a residential care facility for persons with chronic life-threatening illness licensed pursuant to Chapter 3.01 (commencing with Section 1568.01), a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), or a facility licensed pursuant to the California Child Day Care Facilities Act, (Chapter 3.4 (commencing with Section 1596.70)), which includes day care centers, as described in Chapter 3.5 (commencing with Section 1596.90), family day care homes, as described in Chapter 3.6 (commencing with Section 1597.30), and employer-sponsored child care centers, as described in Chapter 3.65 (commencing with Section 1597.70).

(F) A clinic licensed pursuant to Section 1204 or 1204.1.

~~(F)~~

1 (G) A home medical device retail facility licensed—under
2 pursuant to Section 111656.

3 ~~(G)~~

4 (H) An organization vendored or contracted through a regional
5 center or the State Department of Developmental Services pursuant
6 to the Lanterman Developmental Disabilities Services Act
7 ~~(Division 4.5 (Chapter 1~~ (commencing with Section 4500) of
8 ~~Division 4.5 of the Welfare and Institutions Code)~~ and the
9 California Early Intervention Services Act (Title 14 (commencing
10 with Section 95000) of the Government Code) to provide services
11 and supports for persons with developmental disabilities, as defined
12 in Section 4512 of the Welfare and Institutions Code, when funding
13 for those services is provided through the State Department of
14 Developmental Services and more than 50 percent of the recipients
15 of the home care services provided by the organization are persons
16 with developmental disabilities.

17 ~~(H) A community care facility as licensed under Chapter 3~~
18 ~~(commencing with Section 1500), a residential care facility for~~
19 ~~persons with special health care needs licensed under Chapter 3.01~~
20 ~~(commencing with Section 1568.01), a residential care facility for~~
21 ~~the elderly licensed under Chapter 3.2 (commencing with Section~~
22 ~~1569), or a child day care licensed under Chapter 3.4 (commencing~~
23 ~~with Section 1596.70).~~

24 ~~(I) Any~~ An alcoholism or drug abuse recovery or treatment
25 facility as defined by in Section 11834.02.

26 ~~(J) Any other entity providing services similar to those described~~
27 ~~in this paragraph, as determined by the director.~~

28 ~~(8) Providing services authorized pursuant to Section 2731 of~~
29 ~~the Business and Professions Code~~

30 ~~(d) (1) Home care aides shall not include individuals who are~~
31 ~~providing home care services as part of their job duties through~~
32 ~~one of the following entities:~~

33 ~~(A) Services authorized to be provided by a licensed home~~
34 ~~health agency under Chapter 8 (commencing with Section 1725).~~

35 ~~(B) Services authorized to be provided by a licensed hospice~~
36 ~~pursuant to Chapter 8.5 (commencing with Section 1745).~~

37 ~~(C) Services authorized to be provided by a licensed health~~
38 ~~facility pursuant to Chapter 2 (commencing with Section 1250).~~

~~(D) In-home supportive services provided pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code.~~

~~(E) Services authorized to be provided by one~~

~~(J) A facility in which only Indian children who are eligible under the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) are placed and is either of the following:~~

~~(i) A licensed residential care facility for An extended family member of the elderly pursuant to Chapter 3.2 (commencing with Indian child, as defined in Section 1569). 1903 of Title 25 of the United States Code.~~

~~(ii) A licensed community care facility foster home that is licensed, approved, or specified by the Indian child's tribe pursuant to Chapter 3 (commencing with Section 1500). Section 1915 of Title 25 of the United States Code.~~

~~(iii) A licensed residential care facility for persons with chronic life-threatening illness pursuant to Chapter 3.01 (commencing with Section 1568.01).~~

~~(iv) A licensed facility, pursuant to the California Child Day Care Act (Chapter 3.4 (commencing with Section 1596.70)), which includes day care centers under Chapter 3.5 (commencing with Section 1596.90) and family day care homes under to Chapter 3.6 (commencing with Section 1597.30).~~

~~(2) Home care aides shall not include individuals providing services authorized to be provided pursuant to Section 2731 of the Business and Professions Code.~~

~~(d) Home care aides shall not include a nonrelative extended family member, as defined in Section 362.7 of the Welfare and Institutions Code.~~

~~(e) In the event of a conflict between this chapter and a provision listed in subdivision (b), (c), or (d), the provision in subdivision (b), (c), or (d) shall control.~~

~~SEC. 32. Section 1796.16 of the Health and Safety Code is amended to read:~~

~~1796.16. (a) A registered home care aide may provide home care services to more than one child for a family, but may not provide home care services for a child or children from more than one family at the same time. This section chapter shall not preclude a registered home care aide from providing home care services for a child or children of multiple families at different times. This~~

chapter shall not override provisions of the California Child Day Care *Facilities Act* (Chapter 3.4 (commencing with Section 1596.70)), *which includes* Chapter 3.5 (commencing with Section 1596.90), ~~and Chapter 3.6 (commencing with Section 1597.30).~~ *1597.30), and Chapter 3.65 (commencing with Section 1597.70).*

(b) This chapter does not override provisions of the California Community Care Facilities Act (Chapter 3 (commencing with Section 1500)), Residential Care Facilities for Persons With Chronic Life-Threatening Illness Act (Chapter 3.01 (commencing with Section 1568.01)), or the California Residential Care Facilities for the Elderly Act (Chapter 3.2 (commencing with Section 1569)).

SEC. 33. *Section 1796.17 of the Health and Safety Code is amended to read:*

1796.17. *(a) Each home care organization shall be separately licensed. Nothing in this chapter shall prevent a licensee from obtaining more than one home care organization license or obtaining a home care organization license in addition to other licenses issued by the department, or both.*

(b) A home care organization shall not include the following:

~~(a)~~
(1) A home health agency licensed under Chapter 8 (commencing with Section 1725).

~~(b)~~
(2) A hospice licensed under Chapter 8.5 (commencing with Section 1745).

~~(c)~~
(3) A health facility licensed under Chapter 2 (commencing with Section 1250).

~~(d)~~
(4) A county providing in-home supportive person who performs services through the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and Institutions Code, without regard to whether the county provides these services as a public authority of, or through a nonprofit consortium established pursuant to Section 12301.6 of 14132.95, 14132.952, or 14132.956 of, the Welfare and Institutions Code.

~~(e)~~

(5) A home medical device retail facility licensed under Section 111656.

~~(f)~~

(6) An organization vendored or contracted through a regional center or the State Department of Developmental Services pursuant to the Lanterman Developmental Disabilities Services Act (Division 4.5 (commencing with Section 4500) of the Welfare and Institutions Code) and the California Early Intervention Services Act (Title 14 (commencing with Section 95000) of the Government Code) to provide services and supports for persons with developmental disabilities, as defined in Section 4512 of the Welfare and Institutions Code, when funding for those services is provided through the State Department of Developmental Services and more than 50 percent of the recipients of the home care services provided by the organization are persons with developmental disabilities.

~~(g)~~

(7) An employment agency, as defined in Section 1812.5095 of the Civil Code, that procures, offers, refers, provides, or attempts to provide an independent home care aide who provides home care services clients.

~~(h) A residential care facility for the elderly licensed under Chapter 3.2 (commencing with Section 1569).~~

~~(i)~~

(8) A community care facility licensed ~~under pursuant to Chapter 3 (commencing with Section 1500), or a residential care facility for persons with chronic life-threatening illness licensed under pursuant to Chapter 3.01 (commencing with Section 1568.01).~~ *1568.01), a residential care facility for the elderly licensed pursuant to Chapter 3.2 (commencing with Section 1569), or a facility licensed pursuant to the California Child Day Care Facilities Act (Chapter 3.4 (commencing with Section 1596.70)), which includes day care centers, as described in Chapter 3.5 (commencing with Section 1596.90), family day care homes, as described in Chapter 3.6 (commencing with Section 1597.30), and employer-sponsored child care centers, as described in Chapter 3.65 (commencing with Section 1597.70).*

~~(j)~~

(9) ~~An person alcoholism or organization performing activities that fall under the jurisdiction of a child day care facility licensed~~

under Chapter 3.4 (commencing with Section 1596.70), a day care center licensed under Chapter 3.5 (commencing with Section 1596.60), drug abuse recovery or a family day care home licensed under Chapter 3.6 (commencing with treatment facility as defined in Section 1597.30). 11834.02.

(10) A person providing services authorized pursuant to Section 2731 of the Business and Professions Code.

(11) A clinic licensed pursuant to Section 1204 or 1204.1.

(12) A nonrelative extended family member, as defined in Section 362.7 of the Welfare and Institutions Code.

(13) A facility providing home care services in which only Indian children who are eligible under the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.) are placed and which satisfies either of the following:

(A) An extended family member of the Indian child, as defined in Section 1903 of Title 25 of the United States Code.

(B) A foster home that is licensed, approved, or specified by the Indian child's tribe pursuant to Section 1915 of Title 25 of the United States Code.

(14) Any other individual or entity providing services similar to those described in this chapter, as determined by the director.

(c) In the event of a conflict between this chapter and a provision listed in subdivision (b), the provision in subdivision (b) shall control.

SEC. 34. Section 1796.19 of the Health and Safety Code is amended to read:

1796.19. (a) The department shall consider, but is not limited to, the following when determining whether to approve a registration application:

(1) Evidence satisfactory to the department of the ability of the independent home care aide applicant or the affiliated home care aide applicant to comply with this chapter and the rules and regulations promulgated under this chapter by the department.

(2) Evidence satisfactory to the department that the independent home care aide applicant or the affiliated home care aide applicant is of reputable and responsible character. The evidence shall include, but is not limited to, a review of the independent home care aide applicant's or the affiliated home care aide applicant's criminal offender record information pursuant to Section 1522.

(3) ~~Disclosure of any~~ Any revocation or other disciplinary action taken, or in the process of being taken, related to the care of individuals against the ~~independent home care aide applicant or the affiliated home care aide applicant.~~

(4) ~~A signed statement that the independent home care aide applicant or the affiliated home care aide applicant has read and understood this chapter and any rules and regulations promulgated under this chapter by the department.~~

(5)

(4) Any other information that may be required by the department for the proper administration and enforcement of this chapter.

(b) Failure of the home care aide applicant to cooperate with the department in the completion of the Home Care Aide application shall result in the withdrawal of the registration application. “Failure to cooperate” means that the information described in this chapter and by any rules and regulations promulgated under this chapter has not been provided, or has not been provided in the form requested by the department, or both.

SEC. 35. Section 1796.22 of the Health and Safety Code is amended to read:

1796.22. Any individual who has submitted ~~an~~ a home care aide application and who possesses any one of the following identification cards may initiate a background examination to be a registered home care aide:

(a) A valid California driver’s license.

(b) A valid identification card issued by the Department of Motor Vehicles.

(c) A valid Alien Registration Card.

(d) In the case of a person living in a state other than California, a valid numbered photo identification card issued by an agency of the state other than California.

SEC. 36. Section 1796.23 of the Health and Safety Code is amended to read:

1796.23. (a) Each person initiating a background examination to be a registered home care aide shall submit his or her fingerprints to the Department of Justice by electronic transmission in a manner approved by the ~~State Department of Social Services, department,~~ unless exempt under subdivision (d). Each person initiating a background examination to be a registered home care aide shall

1 also submit to the ~~State Department of Social Services~~ *department*
2 a signed declaration under penalty of perjury regarding any prior
3 criminal convictions pursuant to Section 1522 and a completed
4 home care aide application.

5 (b) A law enforcement agency or other local agency authorized
6 to take fingerprints may charge a reasonable fee to offset the costs
7 of fingerprinting for the purposes of this chapter. *The fee revenues*
8 *shall be deposited in the Fingerprint Fees Account.*

9 (c) The Department of Justice shall use the fingerprints to search
10 the state and Federal Bureau of Investigation criminal offender
11 record information pursuant to Section 1522.

12 (d) A person who is a current licensee or employee in a facility
13 licensed by the ~~State Department of Social Services~~, *department*,
14 a certified foster parent, a certified administrator, or a registered
15 TrustLine provider need not submit fingerprints to the ~~State~~
16 ~~Department of Social Services~~ *department*, and may transfer his
17 or her current criminal record clearance or exemption pursuant to
18 paragraph (1) of subdivision (h) of Section 1522. The person shall
19 instead submit to the ~~State Department of Social Services~~,
20 *department*, along with the person's registration application, a
21 copy of the person's identification card described in Section
22 1796.22 and sign a declaration verifying the person's identity.

23 *SEC. 37. Section 1796.24 of the Health and Safety Code is*
24 *amended to read:*

25 1796.24. (a) (1) The department shall establish a home care
26 aide registry pursuant to this chapter and shall continuously update
27 the registry information. Upon submission of the home care ~~aide~~
28 *aide* application and fingerprints or other identification documents
29 pursuant to Section ~~1796.23~~, 1796.22, the department shall enter
30 into the home care aide registry the person's name, identification
31 number, and an indicator that the person has submitted a home
32 care aide application and fingerprints or identification
33 documentation. This person shall be known as a "home care aide
34 applicant."

35 (2) A person shall not be entitled to apply to be a registered
36 home care aide and shall have his or her registration application
37 returned without the right to appeal if the person would not be
38 eligible to obtain a license pursuant to Section ~~1558.1~~. 1796.40 or
39 1796.41.

(b) (1) Before approving an individual for registration, the department shall check the individual's criminal history pursuant to Section 1522. Upon completion of the searches of the state summary criminal offender record information and the records of the Federal Bureau of Investigation, the *home care aide* applicant shall be issued a criminal record clearance or granted a criminal record exemption if grounds do not exist for denial pursuant to Section 1522. The department shall enter that finding in the person's record in the home care aide registry and shall notify the person of the action. This person shall be known as an ~~independent~~ *a "registered home care aide" or an "affiliated home care aide."* If the *home care aide* applicant meets all of the conditions for registration, except receipt of the Federal Bureau of Investigation's criminal offender record information search response, the department may issue a clearance if the *home care aide* applicant has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a minor traffic violation. If, after approval, the department determines that the registrant has a criminal record, registration may be revoked pursuant to Section 1796.26.

(2) For purposes of compliance with this section, the department may permit ~~an~~ *a home care organization applicant or a home care organization licensee* to request the transfer of a *home care aide's* current criminal record clearance or exemption for a licensed care facility issued by the ~~department or a county with delegated licensing authority.~~ *department.* A signed criminal record clearance or exemption transfer request shall be submitted to the department and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the ~~licensee, who shall enclose a self-addressed envelope for this purpose,~~ *licensee or home care aide applicant,* the ~~State Department of Social Services~~ *department* shall verify whether the individual has a clearance or exemption that can be transferred pursuant to the requirements of this chapter.

(3) ~~The State Department of Social Services~~ *department* shall hold criminal record clearances and exemptions in its active files for a minimum of three years after the individual is no longer on the registry in order to facilitate a transfer request.

1 SEC. 38. Section 1796.25 of the Health and Safety Code is
2 amended to read:

3 1796.25. (a) (1) If the department finds that the home care
4 aide applicant or the registered home care aide has been convicted
5 of a crime, other than a minor traffic violation, the department
6 shall deny the home care aide application, or revoke the registered
7 home care aide's registration unless the director grants an
8 exemption pursuant to subdivision (g) of Section 1522.

9 (2) If the department finds that the ~~independent~~ home care aide
10 applicant, ~~the independent home care aide, the affiliated home care~~
11 ~~aide applicant, applicant or the affiliated registered~~ home care
12 aide has an arrest as described in subdivision (a) of Section 1522,
13 the department may deny the registration application or registration
14 renewal application, or revoke the registered home care aide's
15 registration, if the ~~independent~~ home care aide ~~applicant,~~
16 ~~independent home care aide, affiliated home care aide applicant,~~
17 ~~or affiliated registered~~ home care aide may pose a risk to the health
18 and safety of any person who is or may become a client and the
19 department complies with subdivision (e) of Section 1522.

20 (3) The department may deny the home care aide application
21 or the renewal application of a registered home care aide, or revoke
22 the home care aide registration, if the department discovers that
23 it had previously revoked a license or certificate of approval to be
24 a certified family home, a certified administrator, or a registered
25 TrustLine provider held by the home care aide applicant or
26 registered home care aide, or that it had excluded the home care
27 aide applicant or registered home care aide from a licensed facility.

28 (4) The department may deny the home care aide application
29 or registered home care aide registration renewal application, for
30 placement or retention upon the home care aide registry or revoke
31 the registered home care aide's registration if the department
32 discovers that it had previously denied the home care aide
33 applicant's or registered home care aide's application for a license
34 from the department or certificate of approval to be a certified
35 family home, a certified administrator, or a registered TrustLine
36 provider.

37 (b) (1) If the department revokes or denies a home care aide
38 application or registered home care aide's renewal application
39 pursuant to subdivision (a), the department shall advise the home
40 care aide applicant or registered home care aide ~~aide~~, by written

1 *notification*, of the right to appeal. The home care aide applicant
2 or registered home care aide shall have 15 days *from the date of*
3 *the written notification* to appeal the denial or revocation.

4 (2) Upon receipt by the department of the appeal, the appeal
5 shall be set for hearing. The hearing shall be conducted in
6 accordance with Section 1551.

7 (c) If the home care aide application or registered home care
8 aide renewal application has been denied, the home care aide
9 applicant or registered home care aide shall not reapply until he
10 or she meets the timeframe set forth ~~by the department in~~
11 ~~regulation, not to exceed one year. Sections 1796.40 and 1796.41.~~

12 SEC. 39. Section 1796.26 of the Health and Safety Code is
13 amended to read:

14 1796.26. (a) (1) The department may revoke or deny a
15 registered home care aide's registration or request for registration
16 renewal if *any of the following apply to the registered home care*
17 ~~aide does any of the following:~~ *aide:*

18 (A) ~~Procures He or attempts she procured or attempted to~~
19 procure his or her registered home care aide registration or renewal
20 by fraud or misrepresentation.

21 (B) ~~Knowingly makes or gives any false statement or~~
22 ~~information in conjunction with the registered home care aide~~
23 ~~application or renewal application.~~

24 (C)

25 (B) ~~Has He or she has~~ a criminal conviction, *other than a minor*
26 *traffic violation*, unless an exemption is granted pursuant to Section
27 1522.

28 (D) ~~Engages or has engaged in an incident of abuse or neglect~~
29 ~~or other conduct that poses a threat to the health and safety of any~~
30 ~~person who is or may become a client.~~

31 (E) ~~Violates this chapter or of the rules or regulations~~
32 ~~promulgated under this chapter.~~

33 (F) ~~Aids, abets, or permits the violation of this chapter or of the~~
34 ~~rules and regulations promulgated under this chapter.~~

35 (G)

36 (C) ~~Engages He or she engages or~~ has engaged in conduct
37 which is inimical to the health, morals, welfare, or safety of the
38 people of the ~~state~~ *State of California* or an individual receiving
39 or seeking to receive home care services.

1 (H) ~~Engages or has engaged in acts of financial malfeasance~~
2 ~~concerning a client, including, but not limited to, improper use or~~
3 ~~embezzlement of client moneys and property or fraudulent~~
4 ~~appropriation for personal gain of client moneys and property, or~~
5 ~~willful or negligent failure to provide services.~~

6 (2) An individual whose ~~registered home care aide~~ registration
7 has been revoked shall not reapply until he or she meets the
8 timeframe as set forth in ~~Section 1558.1~~. *1796.40 or 1796.41.*

9 (3) An individual whose ~~registered home care aide~~ criminal
10 record exemption has been denied shall not reapply for two years
11 from the date of the exemption denial.

12 (4) The hearing to revoke or deny the registered home care aide
13 registration or registration renewal request shall be conducted in
14 accordance with Section 1551.

15 (b) (1) The registered home care aide's registration shall be
16 considered forfeited under the following conditions:

17 (A) The registered home care aide has had a license or certificate
18 of approval revoked, suspended, or denied as authorized under
19 Section 1534, 1550, 1568.082, 1569.50, *1596.608*, or 1596.885.

20 (B) The registered home care aide has been denied employment,
21 residence, or presence in a facility or client's home based on action
22 resulting from an administrative hearing pursuant to Section 1558,
23 1568.092, 1569.58, or 1596.8897.

24 (C) The registered home care aide fails to maintain a current
25 mailing address with the department.

26 (D) The registered home care aide's registration is not renewed.

27 (E) The registered home care aide surrenders his or her
28 registration to the department.

29 (F) The registered home care aide dies.

30 (2) An individual whose registered home care aide registration
31 has been forfeited shall not reapply until he or she meets the
32 timeframe set forth by the department in ~~Section 1558.1~~. *Sections*
33 *1796.40 and 1796.41.*

34 (c) A registered home care aide's registration shall not be
35 transferred or sold to another individual or entity.

36 *SEC. 40. Section 1796.29 of the Health and Safety Code is*
37 *amended to read:*

38 1796.29. The department shall do both of the following in the
39 administration of the home care aide registry:

1 (a) Establish and maintain on the department's Internet Web
2 site the registry of registered home care aides and home care aide
3 applicants.

4 (1) To expedite the ability of a consumer to search and locate
5 a registered home care aide or home care aide applicant, the
6 Internet Web site shall enable consumers to look up the registration
7 status by providing the registered home care aide's or home care
8 aide applicant's name, registration number, registration status, ~~and~~
9 registration expiration ~~date~~, *date, and, if applicable, the home care*
10 *organization with which the affiliated home care aide is associated.*

11 (2) The Internet Web site shall not provide any additional,
12 individually identifiable information about a registered home care
13 aide or home care aide applicant. The department may request and
14 may maintain additional information for registered home care aides
15 or home care aide applicants, as necessary for the administration
16 of this chapter, which shall not be publicly available on the home
17 care aide registry.

18 (b) Update the home care registry upon receiving notification
19 from a home care organization that an affiliated home care aide is
20 no longer employed by the home care organization.

21 *SEC. 41. Section 1796.31 of the Health and Safety Code is*
22 *amended to read:*

23 1796.31. (a) To remain on the home care aide registry, a
24 registered home care aide shall renew his or her registration every
25 two years.

26 (1) A registered home care aide's registration shall expire every
27 two years, on the anniversary date of the initial registration date.
28 If the registration is not renewed on or prior to its expiration date,
29 the registration shall be forfeited pursuant to subdivision (b) of
30 Section 1796.26.

31 (2) To renew a registration, the registered home care aide shall,
32 on or before the registration expiration date, request renewal by
33 submitting to the department the registration renewal application
34 form and paying the *nonrefundable* registration renewal application
35 fee in the amount determined by the department.

36 (b) Renewal of a registered home care aide's registration is
37 conditioned on compliance with all of the following:

38 (1) Submitting a complete registration renewal application form
39 and payment of ~~fees~~, *the nonrefundable renewal fee*, both of which
40 shall be postmarked on or before the expiration of the registration.

(2) Continuing to satisfy the requirements set forth in this chapter.

(3) Cooperating with the department in the completion of the renewal process. Failure of the registered home care aide to cooperate shall result in the withdrawal of the registration renewal application by the department. For purposes of this section, a failure “failure to cooperate cooperate” means that the information described in this chapter and in any rules and regulations promulgated under this chapter has not been provided, or has not been provided in the form requested by the department, or both.

(c) (1) *The department shall notify a registered home care aide in writing of his or her registration expiration date and the process of renewal.*

~~(e) A revoked registered home care aide’s registration is subject (2) Written notification pursuant to expiration as provided for in this section. If reinstatement of subdivision shall be mailed to the registered home care aide’s registration is approved by the department, the individual, as a condition precedent to reinstatement, shall pay a fee in an amount equal to the renewal fee accrued at mailing address of record at least 60 days before the time of its revocation; registration expiration date.~~

SEC. 42. Section 1796.33 of the Health and Safety Code is amended and renumbered to read:

~~1796.33.~~

1796.32. Any individual who has submitted an application and who possesses any one of the following identification cards may initiate a background examination to be a licensed home care organization:

(a) A valid California driver’s license.

(b) A valid identification card issued by the Department of Motor Vehicles.

(c) A valid Alien Registration Card.

(d) In the case of a person living in a state other than California, a valid numbered photo identification card issued by an agency of the state other than California.

SEC. 43. Section 1796.34 of the Health and Safety Code is amended and renumbered to read:

1 ~~1796.34.~~

2 1796.33. In order to obtain a home care organization license,
3 the following individual or individuals shall consent to the
4 background examination described in Section 1796.23:

5 (a) The owner ~~or owners~~ of the home care organization, if the
6 ~~owners are individuals.~~ *owner is an individual.*

7 (b) If the owner of a home care organization is a corporation,
8 limited liability company, joint venture, association, or other entity,
9 an individual having a 10-percent or greater ~~interest ownership~~
10 ~~in that entity.~~ *entity and the chief executive officer or other person*
11 *serving in a similar capacity. The department shall not issue a*
12 *provisional license or license to any corporate home care*
13 *organization applicant that has a member of the board of directors,*
14 *executive director, or officer who is not eligible for licensure*
15 *pursuant to Sections 1796.40 and 1796.41.*

16 SEC. 44. Section 1796.35 of the Health and Safety Code is
17 amended and renumbered to read:

18 ~~1796.35.~~

19 1796.34. (a) A person or a private or public organization, with
20 the exception of ~~a county providing~~ *any person who performs*
21 *in-home supportive services through the In-Home Supportive*
22 *Services program pursuant to Article 7 (commencing with Section*
23 *12300) of Chapter 3 of Part 3 of Division 9 of the Welfare and*
24 *Institutions Code, or Section 14132.95, 14132.952, or 14132.956*
25 *of the Welfare and Institutions Code, and the exceptions provided*
26 *for in subdivision (b), shall not do any of the following, unless it*
27 *is licensed under pursuant to this chapter:*

28 (1) ~~Represent~~ *Own, manage, or represent* himself, herself or
29 itself to be a home care organization by name, advertising,
30 soliciting, or any other presentments to the public, or in the context
31 of services within the scope of this chapter, imply that he, she, or
32 it is licensed to provide those services or to make any reference to
33 employee bonding in relation to those services.

34 (2) Use the terms “home care organization,” “home care,”
35 “in-home care,” or any combination of those terms, within its
36 name.

37 (b) This section does not apply to either of the following:

38 (1) ~~A county providing~~ *Any person who performs* in-home
39 *supportive services through the In-Home Supportive Services*
40 *program pursuant to Article 7 (commencing with Section 12300)*

1 of Chapter 3 of Part 3 of Division 9—~~of of, or Section 14132.95,~~
2 ~~14132.952, or 14132.956 of~~ the Welfare and Institutions Code.

3 (2) An employment agency, as defined in Section 1812.5095
4 of the Civil Code, that procures, offers, refers, provides, or attempts
5 to provide an ~~affiliated~~ independent home care aide who provides
6 home care to clients.

7 SEC. 45. Section 1796.36 of the Health and Safety Code is
8 amended and renumbered to read:

9 ~~1796.36.~~

10 1796.35. (a) Subject to the exceptions set forth in Section
11 1796.17, an individual, partnership, corporation, limited liability
12 company, joint venture, association, or other entity shall not arrange
13 for the provision of home care services by a registered home care
14 aide to a client in this state before obtaining a license pursuant to
15 this chapter. This shall be deemed “unlicensed home care services.”

16 (b) Upon discovering an individual or entity is in violation of
17 subdivision (a), the department shall send a written notice of
18 noncompliance to the individual or entity and assess a civil penalty
19 of nine hundred dollars (\$900) per day for each calendar day of
20 each violation.

21 (c) Upon discovering that an individual or entity is in violation
22 of subdivision (a), the department shall send a copy of the written
23 notice of noncompliance to the individual or entity and to the
24 Attorney General or appropriate district attorney or city attorney.

25 (d) Upon receiving this notice, the Attorney General, district
26 attorney, or city attorney may do any or all of the following:

27 (1) Issue a cease and desist order, which shall remain in effect
28 until the individual or entity has obtained a license pursuant to this
29 chapter. If the individual or entity fails to comply with the cease
30 and desist order within 20 calendar days, the Attorney General,
31 district attorney, or city attorney may apply for an injunction.

32 ~~(2) Impose the civil penalty described in subdivision (b).~~

33 ~~(3)~~

34 (2) Bring an action against the individual or entity under Chapter
35 5 (commencing with Section 17200) of Part 2 of Division 7 of the
36 Business and Professions Code.

37 SEC. 46. Section 1796.37 of the Health and Safety Code is
38 amended and renumbered to read:

1 ~~1796.37.~~

2 1796.36. (a) A home care organization that has its principal
3 place of business in another state, in addition to the other
4 requirements of this chapter, before arranging for home care
5 services provided by an affiliated home care aide to a client in the
6 state, shall comply with all of the following:

7 (1) Have an office in California.

8 (2) Maintain all pertinent records of the operation in California
9 at the California office. All records shall be available to review,
10 copy, audit, and inspect by the ~~licensing agency.~~ *department.*

11 (b) If the home care organization is a foreign corporation,
12 foreign limited liability company, foreign limited partnership,
13 foreign association, or a foreign limited liability partnership, as
14 defined in Sections 170, 171, 171.03, 171.05, and 16101 of the
15 Corporations Code, before arranging for home care services
16 provided by an affiliated home care aide to a client in the state,
17 the home care organization shall have an office in California and
18 shall comply with both of the following:

19 (1) Register with the Secretary of State to conduct intrastate
20 business in California.

21 (2) Maintain all pertinent records of the operation in California
22 at the California office. All records shall be available to review,
23 copy, audit, and inspect by the ~~licensing agency.~~ *department.*

24 SEC. 47. *Section 1796.38 of the Health and Safety Code is*
25 *amended and renumbered to read:*

26 ~~1796.38.~~

27 1796.37. (a) The department may issue a home care
28 organization license to ~~an individual or other entity~~ *a home care*
29 *organization applicant* that satisfies ~~all of~~ the requirements set
30 forth in this chapter, including all of the following:

31 ~~(a)~~

32 (1) Files a *complete* home care organization application,
33 including the fees required pursuant to Section 1796.49.

34 (2) *Submits proof of general and professional liability insurance*
35 *in the amount of at least one million dollars (\$1,000,000) per*
36 *occurrence and three million dollars (\$3,000,000) in the aggregate.*

37 (3) *Submits proof of a valid workers' compensation policy*
38 *covering its affiliated home care aides. The proof shall consist of*
39 *the policy number, the effective and expiration dates of the policy,*
40 *and the name and address of the policy carrier.*

1 (4) Submits proof of an employee dishonesty bond, including
2 third-party coverage, with a minimum limit of ten thousand dollars
3 (\$10,000). This proof shall be submitted at each subsequent
4 renewal.

5 (5) Provides the department, upon request, with a complete list
6 of its affiliated home care aides, and proof that each satisfies the
7 requirements of Sections 1796.43, 1796.44, and 1796.45.

8 (6) Passes a background examination, as required pursuant to
9 Section 1796.33.

10 (7) Completes a department orientation.

11 (8) Does not have any outstanding fees or civil penalties due to
12 the department.

13 (9) Discloses prior or present service as an administrator;
14 general partner, corporate officer or director of, or discloses that
15 he or she has held or holds a beneficial ownership of 10 percent
16 or more in, any of the following:

17 (A) A community care facility, as defined in Section 1502.

18 (B) A residential care facility, as defined in Section 1568.01.

19 (C) A residential care facility for the elderly, as defined in
20 Section 1569.2.

21 (D) A child day care facility, as defined in Section 1596.750.

22 (E) A day care center, as described in Chapter 3.5 (commencing
23 with Section 1596.90).

24 (F) A family day care home, as described in Chapter 3.6
25 (commencing with Section 1597.30).

26 (G) An employer-sponsored child care center, as described in
27 Chapter 3.65 (commencing with Section 1597.70).

28 (H) A home care organization licensed pursuant to this chapter.

29 (10) Discloses any revocation or other disciplinary action taken,
30 or in the process of being taken, against a license held or
31 previously held by the entities specified in paragraph (9).

32 (11) Provides evidence that every member of the board of
33 directors, if applicable, understands his or her legal duties and
34 obligations as a member of the board of directors and that the
35 home care organization's operation is governed by laws and
36 regulations that are enforced by the department.

37 (12) Provides any other information as may be required by the
38 department for the proper administration and enforcement of this
39 chapter.

(13) Cooperates with the department in the completion of the home care organization license application process. Failure of the home care organization licensee to cooperate may result in the withdrawal of the home care organization license application. “Failure to cooperate” means that the information described in this chapter and in any rules and regulations promulgated pursuant to this chapter has not been provided, or not provided in the form requested by the department, or both.

(b) A home care organization licensee shall renew the home care organization license every two years. The department may renew a home care organization license if the licensee satisfies the requirements set forth in this chapter, including all of the following:

(1) Files a complete home care organization license renewal application, including the nonrefundable fees required pursuant to Section 1796.49, both of which shall be postmarked on or before the expiration of the license.

~~(b)~~

(2) Submits proof of general and professional liability insurance in the amount of at least one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) in the aggregate.

~~(e)~~

(3) Submits proof of a valid workers’ compensation policy covering its affiliated home care aides. The proof shall consist of the policy number, the effective and expiration dates of the policy, and the name and address of the policy carrier.

~~(d) Provides the department, upon request,~~

(4) Submits proof of an employee dishonesty bond, including third-party coverage, with a ~~complete list~~ minimum limit of its affiliated home care aides, and ~~proof that each satisfies the requirements of Section 1796.43.~~ ten thousand dollars (\$10,000).

(5) Does not have any outstanding fees or civil penalties due to the department.

(6) Provides any other information as may be required by the department for the proper administration and enforcement of this chapter.

~~(e) The owner or owners~~

(7) Cooperates with the department in the completion of the home care organization ~~pass a background examination, as required~~ license renewal process. Failure of the home care organization

1 licensee to cooperate may result in the withdrawal of the home
2 care organization license renewal application. “Failure to
3 cooperate” means that the information described in this chapter
4 and in any rules and regulations promulgated pursuant to ~~Section~~
5 ~~1796.34~~, this chapter has not been provided, or not provided in
6 the form requested by the department, or both.

7 (c) (1) The department shall notify a licensed home care
8 organization in writing of its registration expiration date and the
9 process of renewal.

10 ~~(f) The applicant does not have any outstanding fees or civil~~
11 ~~penalties due to~~

12 (2) Written notification pursuant to this subdivision shall be
13 mailed to the ~~department~~, registered home care organization’s
14 mailing address of record at least 60 days before the registration
15 expiration date.

16 SEC. 48. Section 1796.38 is added to the Health and Safety
17 Code, to read:

18 1796.38. The department may deny an application for licensure
19 or suspend or revoke any license issued pursuant to this chapter;
20 pursuant to Sections 1550.5 and 1551 and in the manner provided
21 in this chapter on any of the following grounds:

22 (a) Violation by the licensee of this chapter or of the rules and
23 regulations promulgated under this chapter.

24 (b) Aiding, abetting, or permitting the violation of this chapter
25 or of the rules and regulations promulgated under this chapter.

26 (c) Conduct which is inimical to the health, morals, welfare, or
27 safety of either an individual receiving home care services or the
28 people of the State of California.

29 (d) The conviction of a licensee, or other person mentioned in
30 Section 1522, at any time before or during licensure, of a crime
31 as defined in Section 1522.

32 (e) Engaging in acts of financial malfeasance concerning the
33 operation of a home care organization.

34 SEC. 49. Section 1796.39 of the Health and Safety Code is
35 repealed.

36 ~~1796.39. (a) A home care organization licensee shall renew~~
37 ~~the home care organization license every two years.~~

38 ~~(b) Renewal shall be conditioned upon the licensee doing both~~
39 ~~of the following:~~

1 ~~(1) Submitting a complete home care organization licensee~~
2 ~~renewal application form and payment of fees, both of which shall~~
3 ~~be postmarked on or before the expiration of the license.~~

4 ~~(2) Continuing to satisfy the requirements set forth in this~~
5 ~~chapter, and cooperating with the department in the completion~~
6 ~~of the home care organization licenses renewal process.~~

7 ~~(e) Failure of the home care organization licensee to cooperate~~
8 ~~may result in the withdrawal of the home care organization license~~
9 ~~renewal application. “Failure to cooperate” means that the~~
10 ~~information described in this chapter and in any rules and~~
11 ~~regulations promulgated under this chapter has not been provided,~~
12 ~~or not provided in the form requested by the department, or both.~~

13 ~~SEC. 50. Section 1796.40 is added to the Health and Safety~~
14 ~~Code, to read:~~

15 ~~1796.40. (a) (1) If an application for a home care organization~~
16 ~~license indicates, or the department determines during the~~
17 ~~application review process, that the home care organization~~
18 ~~applicant was previously issued a license under this chapter or~~
19 ~~under Chapter 1 (commencing with Section 1200), Chapter 2~~
20 ~~(commencing with Section 1250), Chapter 3 (commencing with~~
21 ~~Section 1500), Chapter 3.01 (commencing with Section 1568.01),~~
22 ~~Chapter 3.2 (commencing with Section 1569), Chapter 3.4~~
23 ~~(commencing with Section 1596.70), Chapter 3.5 (commencing~~
24 ~~with Section 1596.90), Chapter 3.6 (commencing with Section~~
25 ~~1597.30), or Chapter 3.65 (commencing with Section 1597.70),~~
26 ~~and the prior license was revoked within the preceding two years,~~
27 ~~the department shall cease any further review of the application~~
28 ~~until two years have elapsed from the date of the revocation. All~~
29 ~~home care organizations are exempt from the health planning~~
30 ~~requirements contained in Part 2 (commencing with Section~~
31 ~~127125) of Division 107.~~

32 ~~(2) If an application for a license indicates, or the department~~
33 ~~determines during the application review process, that the home~~
34 ~~care organization applicant previously was issued a certificate of~~
35 ~~approval by a foster family agency that was revoked by the~~
36 ~~department pursuant to subdivision (b) of Section 1534 within the~~
37 ~~preceding two years, the department shall cease any further review~~
38 ~~of the application until two years have elapsed from the date of~~
39 ~~the revocation.~~

1 (3) *If an application for a license indicates, or the department*
2 *determines during the application review process, that the home*
3 *care organization applicant was excluded from a facility licensed*
4 *by the department pursuant to Section 1558, 1568.092, 1569.58,*
5 *or 1596.8897, the department shall cease any further review of*
6 *the application unless the excluded individual has been reinstated*
7 *pursuant to Section 11522 of the Government Code by the*
8 *department.*

9 (b) *If an application for a license indicates, or the department*
10 *determines during the application review process, that the home*
11 *care organization applicant had previously applied for a license*
12 *pursuant to any of the chapters listed in paragraph (1) of*
13 *subdivision (a) and the application was denied within the last year,*
14 *the department shall cease further review of the application until*
15 *one year has elapsed from the date of the denial letter. In those*
16 *circumstances in which denials are appealed and upheld at an*
17 *administrative hearing, review of the application shall cease for*
18 *one year from the date of the decision and order of the department.*

19 (c) *If an application for a license indicates, or the department*
20 *determines during the application review process, that the home*
21 *care organization applicant had previously applied for a certificate*
22 *of approval with a foster family agency and the department ordered*
23 *the foster family agency to deny the application pursuant to*
24 *subdivision (b) of Section 1534, the department shall cease further*
25 *review of the application as follows:*

26 (1) *In cases where the home care organization applicant*
27 *petitioned for a hearing, the department shall cease further review*
28 *of the application until one year has elapsed from the effective*
29 *date of the decision and order of the department upholding the*
30 *denial.*

31 (2) *In cases where the department informed the home care*
32 *organization applicant of his or her right to petition for a hearing*
33 *and the home care organization applicant did not petition for a*
34 *hearing, the department shall cease further review of the*
35 *application until one year has elapsed from the date of the*
36 *notification of the denial and the right to petition for a hearing.*

37 (3) *The department may continue to review the application if it*
38 *has determined that the reasons for the denial of the application*
39 *were due to circumstances and conditions that either have been*
40 *corrected or are no longer in existence.*

1 (d) Cessation of review pursuant to this section does not
2 constitute a denial of the application.

3 SEC. 51. Section 1796.41 of the Health and Safety Code is
4 amended and renumbered to read:

5 ~~1796.41.~~

6 1796.42. A home care organization licensee shall do all of the
7 following:

8 (a) Post its ~~license~~ license, business hours, and ~~business hours~~
9 any other information required by the department in its place of
10 business in a conspicuous location, visible both to clients and
11 affiliated home care aides.

12 (b) Maintain and abide by a valid workers' compensation policy
13 covering its affiliated home care aides.

14 (c) Maintain and abide by an employee dishonesty bond,
15 including third-party coverage, with a minimum limit of ten
16 thousand dollars (\$10,000).

17 (d) Maintain proof of general and professional liability
18 insurance in the amount of at least one million dollars (\$1,000,000)
19 per occurrence and three million dollars (\$3,000,000) in the
20 aggregate.

21 ~~(d)~~

22 (e) Report any suspected or known dependent adult or elder
23 abuse as required by Section 15630 of the Welfare and Institutions
24 Code and suspected or known child abuse as required by Sections
25 11164 to 11174.3, inclusive, of the Penal Code. A copy of each
26 suspected abuse report shall be maintained and available for review
27 by the department during normal business hours.

28 SEC. 52. Section 1796.41 is added to the Health and Safety
29 Code, to read:

30 1796.41. (a) (1) If the department determines that a person
31 was issued a license pursuant to this chapter or Chapter 1
32 (commencing with Section 1200), Chapter 2 (commencing with
33 Section 1250), Chapter 3 (commencing with Section 1500), Chapter
34 3.01 (commencing with Section 1568.01), Chapter 3.2
35 (commencing with Section 1569), Chapter 3.4 (commencing with
36 Section 1596.70), Chapter 3.5 (commencing with Section 1596.90),
37 Chapter 3.6 (commencing with Section 1597.30), or Chapter 3.65
38 (commencing with Section 1597.70), and the prior license was
39 revoked within the preceding two years, the department shall
40 exclude the person from acting as, and require the home care

1 organization to remove him or her from his or her position as, a
2 member of the board of directors, an executive director, or an
3 officer of a licensee of any home care organizations licensed by
4 the department pursuant to this chapter.

5 (2) If the department determines that a person was previously
6 issued a certificate of approval by a foster family agency that was
7 revoked by the department pursuant to subdivision (b) of Section
8 1534 within the preceding two years, the department shall exclude
9 the person from acting as, and require the home care organization
10 to remove him or her from his or her position as, a member of the
11 board of directors, an executive director, or an officer of a licensee
12 of, any home care organizations licensed by the department
13 pursuant to this chapter.

14 (b) If the department determines that the person had previously
15 applied for a license under any of the chapters listed in paragraph
16 (1) of subdivision (a) and the application was denied within the
17 last year, the department shall exclude the person from acting as,
18 and require the home care organization to remove him or her from
19 his or her position as, a member of the board of directors, an
20 executive director, or an officer of a licensee of any home care
21 organizations licensed by the department pursuant to this chapter
22 as follows:

23 (1) In cases where the home care organization applicant
24 petitioned for a hearing, the department shall exclude the person
25 from acting as, and require the home care organization to remove
26 him or her from his or her position as, a member of the board of
27 directors, an executive director, or an officer of a licensee of, any
28 home care organizations licensed by the department pursuant to
29 this chapter until one year has elapsed from the effective date of
30 the decision and order of the department upholding a denial.

31 (2) In cases where the department informed the home care
32 organization applicant of his or her right to petition for a hearing
33 and the home care organization applicant did not petition for a
34 hearing, the department shall exclude the person from acting as,
35 and require the home care organization to remove him or her from
36 his or her position as, a member of the board of directors, an
37 executive director, or an officer of a licensee of, any home care
38 organizations licensed by the department pursuant to this chapter
39 until one year has elapsed from the date of the notification of the
40 denial and the right to petition for a hearing.

1 (c) If the department determines that the person had previously
2 applied for a certificate of approval with a foster family agency
3 and the department ordered the foster family agency to deny the
4 application pursuant to subdivision (b) of Section 1534, the
5 department shall exclude the person from acting as, and require
6 the home care organization to remove him or her from his or her
7 position as, a member of the board of directors, an executive
8 director, or an officer of a licensee of, any home care organizations
9 licensed by the department pursuant to this chapter and as follows:

10 (1) In cases where the home care organization applicant
11 petitioned for a hearing, the department shall exclude the person
12 from acting as, and require the home care organization to remove
13 him or her from his or her position as, a member of the board of
14 directors, an executive director, or an officer of a licensee of, any
15 home care organizations licensed by the department pursuant to
16 this chapter until one year has elapsed from the effective date of
17 the decision and order of the department upholding a denial.

18 (2) In cases where the department informed the home care
19 organization applicant of his or her right to petition for a hearing
20 and the home care organization applicant did not petition for a
21 hearing, the department shall exclude the person from acting as,
22 and require the home care organization to remove him or her from
23 his or her position as, a member of the board of directors, an
24 executive director, or an officer of a licensee of, any home care
25 organizations licensed by the department pursuant to this chapter
26 until one year has elapsed from the date of the notification of the
27 denial and the right to petition for a hearing.

28 (d) Exclusion or removal of an individual pursuant to this
29 section shall not be considered an order of exclusion for purposes
30 of Section 1796.25 or any other law.

31 (e) The department may determine not to exclude a person from
32 acting as or require that he or she be removed from his or her
33 position as a member of the board of directors, an executive
34 director, or an officer of a licensee of, any home care organizations
35 licensed by the department pursuant to this chapter if it has been
36 determined that the reasons for the denial of the application or
37 revocation of the facility license or certificate of approval were
38 due to circumstances or conditions that either have been corrected
39 or are no longer in existence.

1 *SEC. 53. Section 1796.42 of the Health and Safety Code is*
2 *amended and renumbered to read:*

3 ~~1796.42.~~

4 1796.43. (a) Home care organizations that employ affiliated
5 home care aides shall ensure the affiliated home care aides are
6 cleared on the home care aide registry before placing the individual
7 in direct contact with clients. In addition, the home care
8 organization shall do all of the following:

9 (1) Ensure any staff person, volunteer, or employee of a home
10 care organization who has contact with clients, prospective clients,
11 or confidential client information that may pose a risk to the clients'
12 health and safety has met the requirements of ~~Section 1796.23~~
13 Sections 1796.23, 1796.24, 1796.25, 1796.26, and 1796.28 before
14 ~~being hired.~~ there is contact with clients or prospective clients or
15 access to confidential client information.

16 (2) Require home care aides to demonstrate that they are free
17 of active tuberculosis disease, pursuant to Section 1796.45.

18 (3) Immediately notify the department when the home care
19 organization no longer employs an individual as an affiliated home
20 care aide.

21 (b) This section shall not prevent a licensee from requiring a
22 criminal record clearance of any individual exempt from the
23 requirements of this section, provided that the individual has client
24 contact.

25 *SEC. 54. Section 1796.44 of the Health and Safety Code is*
26 *amended to read:*

27 1796.44. (a) ~~A home care organization~~ licensee shall ensure
28 that prior to providing home care services, an affiliated home care
29 aide shall complete the training requirements specified in this
30 section.

31 (b) An affiliated home care aide shall complete a minimum of
32 five hours of entry-level training prior to presence with a client,
33 as follows:

34 (1) Two hours of orientation training regarding his or her role
35 as caregiver and the applicable terms of employment.

36 (2) Three hours of safety training, including basic safety
37 precautions, emergency procedures, and infection control.

38 (c) In addition to the requirements in subdivision (b), an
39 affiliated home care aide shall complete a minimum of five hours
40 of annual training. The annual training shall relate to core

competencies and be population specific, which shall include, but not be limited to, the following areas:

(1) Clients' rights and safety.

(2) How to provide for and respond to a client's daily living needs.

(3) How to report, prevent, and detect abuse and neglect.

(4) How to assist a client with personal hygiene and other home care services.

(5) If transportation services are provided, how to safely transport a client.

(d) The entry-level training and annual training—~~on department-approved job-related topics~~ described in subdivisions (b) and (c) may be completed through an online training program.

SEC. 55. Section 1796.45 of the Health and Safety Code is amended to read:

1796.45. (a) ~~An individual hired to be an affiliated~~ *Affiliated* home care aide ~~aides hired on or after January 1, 2015, 2016, shall be submitted~~ *submit* to an examination 90 days prior to employment or within seven days after employment to determine that the individual is free of active tuberculosis disease.

(b) For purposes of this section, "examination" means a test for tuberculosis infection that is recommended by the federal Centers for Disease Control and Prevention (CDC) and that is licensed by the federal Food and Drug Administration (FDA) and, if that test is positive, an X-ray of the lungs. The aide shall not work as an affiliated home care aide unless ~~he or she~~ *the licensee* obtains documentation from a licensed medical professional that there is no risk of spreading the disease.

~~(e) An affiliated home care aide whose employment with a home care organization began before January 1, 2015, shall submit to the examination described in subdivision (a) before July 1, 2015.~~

~~(d)~~

(c) After submitting to an examination, an affiliated home care aide whose test for tuberculosis infection is negative shall be required to undergo an examination at least once every two years. Once an affiliated home care aide has a documented positive test for tuberculosis infection that has been followed by an X-ray, the examination is no longer required.

~~(e)~~

(d) After ~~the~~ *each* examination, an affiliated home care aide shall submit, and the home care organization shall keep on file, a certificate from the examining practitioner showing that the affiliated home care aide was examined and found free from active tuberculosis disease.

~~(f)~~

(e) The examination is a condition of initial and continuing employment with the home care organization. ~~The affiliated home care aide shall pay the cost of the examination.~~

~~(g)~~

(f) An affiliated home care aide who transfers employment from one home care organization to another shall be deemed to meet the requirements of subdivision (a) or (c) if the affiliated home care aide can produce a certificate showing that he or she submitted to the examination within the past two years and was found to be free of active tuberculosis disease, or if it is verified by the home care organization previously employing him or her that it has a certificate on file that contains that ~~showing~~ *showing and a copy of the certificate is provided to the new home care organization prior to the affiliated home care aide beginning employment.*

SEC. 56. Section 1796.47 of the Health and Safety Code is amended to read:

1796.47. (a) (1) Administration of this program shall be fully supported by fees and not civil penalties. Initial costs to implement this chapter may be provided through a General Fund loan that is to be repaid in accordance with a schedule provided by the Department of Finance. The department shall assess fees for home care organization licensure, and home care aide registration related to activities authorized by this chapter. The department may adjust fees as necessary to fully support the administration of this chapter. Except for General Fund moneys that are otherwise transferred or appropriated for the initial costs of administering this chapter, or penalties collected pursuant to this chapter that are appropriated by the Legislature for the purposes of this chapter, no General Fund moneys shall be used for any purpose under this chapter.

(2) A portion of moneys collected in the administration of this chapter, as designated by the department, may be used for community outreach consistent with this chapter.

(b) The Home Care Fund is hereby created within the State Treasury for the purpose of this chapter. All licensure and

1 registration fees authorized by this chapter shall be deposited into
2 the Home Care ~~Fund~~. *Fund, except the fingerprint fees collected*
3 *pursuant to Section 1796.23, which shall be deposited into the*
4 *Fingerprint Fees Account.* Moneys in this fund shall, upon
5 appropriation by the Legislature, be made available to the
6 department for purposes of administering this chapter.

7 *(c) Any fines and penalties collected pursuant to this chapter*
8 *shall be deposited into the Home Care Technical Assistance Fund,*
9 *which is hereby created as a subaccount within the Home Care*
10 *Fund. Moneys in the Home Care Technical Assistance Fund shall,*
11 *upon appropriation by the Legislature, be available to the*
12 *department for the purposes of providing technical assistance,*
13 *training, and education pursuant to this chapter.*

14 *SEC. 57. Section 1796.48 of the Health and Safety Code is*
15 *amended to read:*

16 1796.48. (a) The department may charge ~~an~~ a nonrefundable
17 application and nonrefundable renewal fee to become a registered
18 home care aide and to renew a registered home care aide's
19 registration.

20 (b) The maximum fee shall not exceed the total actual costs,
21 which include, but are not limited to, of all of the following:

22 (1) The searches for criminal offender records performed by
23 the Department of Justice. ~~The cost to check the criminal offender~~
24 ~~records shall not subsidize the cost to check the criminal history~~
25 ~~of other persons by the department who are not charged a fee by~~
26 ~~the Department of Justice.~~

27 (2) The cost incurred by the Department of Justice for the
28 searches of the records of the Federal Bureau of Investigation.

29 (3) The cost to the department to process the applications and
30 maintain the home care aide registry and perform the duties
31 required by this chapter and any rules and regulations promulgated
32 ~~under~~ pursuant to this chapter.

33 (c) The fees collected shall be deposited into the Home Care
34 Fund pursuant to subdivision (b) of Section ~~1796.47~~. 1796.47,
35 *except the fingerprint fees collected pursuant to Section 1796.23,*
36 *which shall be deposited into the Fingerprint Fees Account.*

37 *SEC. 58. Section 1796.49 of the Health and Safety Code is*
38 *amended to read:*

39 1796.49. (a) ~~A home care organization~~ licensee shall pay the
40 following fees:

1 (1) A *nonrefundable* 24-month initial license fee, as prescribed
2 by the department, for a ~~new home care organization~~ licensee not
3 currently licensed to provide home care services in the state.

4 (2) ~~Two-year~~ A *two-year nonrefundable* renewal fee, as
5 determined by the department, based on the number of full-time
6 equivalents (FTEs), including paid personnel or contractors needed
7 to oversee the enforcement of this chapter.

8 (3) Other reasonable fees as prescribed by the department
9 necessary for the administration of this chapter.

10 (b) The fees collected shall be deposited into the Home Care
11 Fund pursuant to subdivision (b) of Section ~~1796.47~~. 1796.47,
12 *except the fingerprint fees collected pursuant to Section 1796.23,*
13 *which shall be deposited into the Fingerprint Fees Account.*

14 *SEC. 59. Section 1796.52 of the Health and Safety Code is*
15 *amended to read:*

16 1796.52. (a) The department may review and, if it determines
17 necessary, investigate complaints filed against home care
18 organizations regarding violations of this chapter or any rules or
19 regulations promulgated ~~under~~ pursuant to this chapter.

20 (b) The department shall verify through random, unannounced
21 inspections that a home care organization meets the requirements
22 of this chapter and the rules and regulations promulgated ~~under~~
23 pursuant to this chapter.

24 (c) An investigation or inspection conducted by the department
25 pursuant to this chapter may include, but is not limited to,
26 inspection of the books, records, or premises of a home care
27 organization. A home care organization's refusal to make records,
28 books, or premises available shall constitute cause for the
29 revocation of the home care organization's license.

30 (d) Other than maintaining the home care registry, the
31 department shall have no oversight responsibility regarding
32 registered home care aides.

33 (e) *Upon receipt of a report of suspected or known abuse, as*
34 *set forth in subdivision (e) of Section 1796.42, the department shall*
35 *cross-report the suspected or known abuse to local law*
36 *enforcement and Adult Protective Services if the alleged victim is*
37 *18 years of age or older, or local law enforcement and Child*
38 *Protective Services if the alleged victim is under 18 years of age.*
39 *Other than the cross-reporting required by this subdivision, the*
40 *department shall not be required to investigate suspected or known*

1 *abuse or have other responsibilities related to the suspected or*
2 *known abuse. This subdivision shall not supersede the existing*
3 *duty of home health aides and home health agencies as mandated*
4 *reporters to report directly to local law enforcement or county*
5 *adult protective services pursuant to Section 15630.*

6 *SEC. 60. Section 1796.55 of the Health and Safety Code is*
7 *amended to read:*

8 1796.55. (a) A home care organization that operates in
9 violation of any requirement or obligation imposed by this chapter
10 or any rule or regulation promulgated ~~under~~ *pursuant to* this chapter
11 may be subject to the fines levied or licensure action taken by the
12 department as specified in this chapter.

13 (b) When the department determines that a home care
14 organization is in violation of this chapter or any rules or
15 regulations promulgated ~~under~~ *pursuant to* this chapter, a notice
16 of violation shall be served upon the licensee. Each notice of
17 violation shall be prepared in writing and shall specify the nature
18 of the violation and the statutory provision, rule, or regulation
19 alleged to have been violated. The notice shall inform the licensee
20 of any action the department may take ~~under~~ *pursuant to* this
21 chapter, including the requirement of a plan of correction,
22 assessment of a penalty, or action to suspend, revoke, or deny
23 renewal of the license. The director or his or her designee shall
24 also inform the licensee of rights to a hearing ~~under~~ *pursuant to*
25 this chapter.

26 (c) The department may impose a fine of up to nine hundred
27 dollars (\$900) per violation per day commencing on the date the
28 violation was identified and ending on the date each violation is
29 corrected, ~~or action is taken to suspend, revoke, or deny renewal~~
30 ~~of the license, whichever comes first.~~ *corrected.*

31 (d) The department shall adopt regulations establishing
32 procedures for notices, correction plans, appeals, and hearings.

33 *SEC. 61. Section 1796.56 of the Health and Safety Code is*
34 *repealed.*

35 ~~1796.56. Any fines and penalties collected pursuant to this~~
36 ~~chapter shall be deposited into the Home Care Penalties~~
37 ~~Subaccount, which is hereby created within the Home Care Fund~~
38 ~~created pursuant to Section 1796.47. Moneys in this account shall,~~
39 ~~upon appropriation by the Legislature, be made available to the~~
40 ~~department for purposes of enforcing this chapter.~~

1 *SEC. 62. Section 1796.61 of the Health and Safety Code is*
2 *amended to read:*

3 1796.61. (a) This chapter shall ~~become operative~~ *be*
4 *implemented on January 1, 2015; 2016.*

5 (b) *Home care organization applicants and home care aide*
6 *applicants who submit applications prior to January 1, 2016, shall*
7 *be authorized to provide home care services without meeting the*
8 *requirements of Section 1796.45, provided the requirements of*
9 *that section are met no later than July 1, 2016.*

10 (c) *The applicants described in subdivision (b) shall meet all*
11 *the requirements of this chapter no later than July 1, 2016, in order*
12 *to continue to provide home care services.*

13 *SEC. 63. Section 1796.63 of the Health and Safety Code is*
14 *amended to read:*

15 1796.63. (a) The department shall adopt, amend, or repeal,
16 in accordance with Chapter 3.5 (commencing with Section 11340)
17 of the Government Code, any reasonable rules, regulations, and
18 standards as may be necessary or proper to carry out the purpose
19 and intent of this chapter and to enable the department to exercise
20 the powers and perform the duties conferred upon it by this chapter,
21 not inconsistent with any of the provisions of any statute of this
22 state. Notwithstanding the rulemaking provisions of the
23 Administrative Procedure Act (Chapter 3.5 (commencing with
24 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
25 Code), the department may implement and administer this chapter
26 through written directives, without taking regulatory action, subject
27 to the limitations provided in subdivision (b).

28 ~~(a) The department shall post any proposed rules promulgated~~
29 ~~under this section on its public Internet Web site no earlier than~~
30 ~~10 calendar days prior to the effective date of the proposed rule,~~
31 ~~which shall also include notification to the public regarding how~~
32 ~~members of the public may comment, including the date on which~~
33 ~~those comment must be received in order to be considered by the~~
34 ~~department.~~

35 (b) The department's authority to implement and administer
36 this ~~section~~ *chapter* through written directives shall expire no later
37 than ~~12 months after the written directives are promulgated and~~
38 ~~posted on a public Internet Web site, January 1, 2018,~~ or upon the
39 effective date of regulations promulgated in accordance with the
40 Administrative Procedure Act (Chapter 3.5 (commencing with

1 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
2 Code), whichever occurs sooner.

3 *(c) The department may adopt emergency regulations to*
4 *implement and administer the provisions of this chapter. The*
5 *department may readopt any emergency regulations that are the*
6 *same as, or substantially equivalent to, any emergency regulations*
7 *previously adopted. The initial adoption and readoption of*
8 *emergency regulations for the implementation and administration*
9 *of this chapter pursuant to this subdivision shall be deemed to be*
10 *an emergency and necessary for the immediate preservation of*
11 *the public peace, health, safety, or general welfare. The initial and*
12 *readopted emergency regulations shall be exempt from review by*
13 *the Office of Administrative Law. The initial and readopted*
14 *emergency regulations shall be submitted to the Office of*
15 *Administrative Law for filing with the Secretary of State and each*
16 *adoption or readoption shall remain in effect for no more than*
17 *180 days.*

18 SEC. 64. Section 300 of the Welfare and Institutions Code is
19 amended to read:

20 300. Any child who comes within any of the following
21 descriptions is within the jurisdiction of the juvenile court which
22 may adjudge that person to be a dependent child of the court:

23 (a) The child has suffered, or there is a substantial risk that the
24 child will suffer, serious physical harm inflicted nonaccidentally
25 upon the child by the child's parent or guardian. For the purposes
26 of this subdivision, a court may find there is a substantial risk of
27 serious future injury based on the manner in which a less serious
28 injury was inflicted, a history of repeated inflictions of injuries on
29 the child or the child's siblings, or a combination of these and other
30 actions by the parent or guardian which indicate the child is at risk
31 of serious physical harm. For purposes of this subdivision, "serious
32 physical harm" does not include reasonable and age-appropriate
33 spanking to the buttocks where there is no evidence of serious
34 physical injury.

35 (b) (1) The child has suffered, or there is a substantial risk
36 that the child will suffer, serious physical harm or illness, as a
37 result of the failure or inability of his or her parent or guardian to
38 adequately supervise or protect the child, or the willful or negligent
39 failure of the child's parent or guardian to adequately supervise
40 or protect the child from the conduct of the custodian with whom

the child has been left, or by the willful or negligent failure of the parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the inability of the parent or guardian to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse. No child shall be found to be a person described by this subdivision solely due to the lack of an emergency shelter for the family. Whenever it is alleged that a child comes within the jurisdiction of the court on the basis of the parent's or guardian's willful failure to provide adequate medical treatment or specific decision to provide spiritual treatment through prayer, the court shall give deference to the parent's or guardian's medical treatment, nontreatment, or spiritual treatment through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by an accredited practitioner thereof, and shall not assume jurisdiction unless necessary to protect the child from suffering serious physical harm or illness. In making its determination, the court shall consider (1) the nature of the treatment proposed by the parent or guardian, (2) the risks to the child posed by the course of treatment or nontreatment proposed by the parent or guardian, (3) the risk, if any, of the course of treatment being proposed by the petitioning agency, and (4) the likely success of the courses of treatment or nontreatment proposed by the parent or guardian and agency. The child shall continue to be a dependent child pursuant to this subdivision only so long as is necessary to protect the child from risk of suffering serious physical harm or illness.

(2) The Legislature finds and declares that a child who is sexually trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially sexually exploited children.

(c) The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the

1 parent or guardian or who has no parent or guardian capable of
2 providing appropriate care. No child shall be found to be a person
3 described by this subdivision if the willful failure of the parent or
4 guardian to provide adequate mental health treatment is based on
5 a sincerely held religious belief and if a less intrusive judicial
6 intervention is available.

7 (d) The child has been sexually abused, or there is a substantial
8 risk that the child will be sexually abused, as defined in Section
9 11165.1 of the Penal Code, by his or her parent or guardian or a
10 member of his or her household, or the parent or guardian has
11 failed to adequately protect the child from sexual abuse when the
12 parent or guardian knew or reasonably should have known that
13 the child was in danger of sexual abuse.

14 (e) The child is under the age of five years and has suffered
15 severe physical abuse by a parent, or by any person known by the
16 parent, if the parent knew or reasonably should have known that
17 the person was physically abusing the child. For the purposes of
18 this subdivision, “severe physical abuse” means any of the
19 following: any single act of abuse which causes physical trauma
20 of sufficient severity that, if left untreated, would cause permanent
21 physical disfigurement, permanent physical disability, or death;
22 any single act of sexual abuse which causes significant bleeding,
23 deep bruising, or significant external or internal swelling; or more
24 than one act of physical abuse, each of which causes bleeding,
25 deep bruising, significant external or internal swelling, bone
26 fracture, or unconsciousness; or the willful, prolonged failure to
27 provide adequate food. A child may not be removed from the
28 physical custody of his or her parent or guardian on the basis of a
29 finding of severe physical abuse unless the social worker has made
30 an allegation of severe physical abuse pursuant to Section 332.

31 (f) The child’s parent or guardian caused the death of another
32 child through abuse or neglect.

33 (g) The child has been left without any provision for support;
34 physical custody of the child has been voluntarily surrendered
35 pursuant to Section 1255.7 of the Health and Safety Code and the
36 child has not been reclaimed within the 14-day period specified
37 in subdivision (e) of that section; the child’s parent has been
38 incarcerated or institutionalized and cannot arrange for the care of
39 the child; or a relative or other adult custodian with whom the child
40 resides or has been left is unwilling or unable to provide care or

1 support for the child, the whereabouts of the parent are unknown,
2 and reasonable efforts to locate the parent have been unsuccessful.

3 (h) The child has been freed for adoption by one or both parents
4 for 12 months by either relinquishment or termination of parental
5 rights or an adoption petition has not been granted.

6 (i) The child has been subjected to an act or acts of cruelty by
7 the parent or guardian or a member of his or her household, or the
8 parent or guardian has failed to adequately protect the child from
9 an act or acts of cruelty when the parent or guardian knew or
10 reasonably should have known that the child was in danger of
11 being subjected to an act or acts of cruelty.

12 (j) The child's sibling has been abused or neglected, as defined
13 in subdivision (a), (b), (d), (e), or (i), and there is a substantial risk
14 that the child will be abused or neglected, as defined in those
15 subdivisions. The court shall consider the circumstances
16 surrounding the abuse or neglect of the sibling, the age and gender
17 of each child, the nature of the abuse or neglect of the sibling, the
18 mental condition of the parent or guardian, and any other factors
19 the court considers probative in determining whether there is a
20 substantial risk to the child.

21 It is the intent of the Legislature that nothing in this section
22 disrupt the family unnecessarily or intrude inappropriately into
23 family life, prohibit the use of reasonable methods of parental
24 discipline, or prescribe a particular method of parenting. Further,
25 nothing in this section is intended to limit the offering of voluntary
26 services to those families in need of assistance but who do not
27 come within the descriptions of this section. To the extent that
28 savings accrue to the state from child welfare services funding
29 obtained as a result of the enactment of the act that enacted this
30 section, those savings shall be used to promote services which
31 support family maintenance and family reunification plans, such
32 as client transportation, out-of-home respite care, parenting
33 training, and the provision of temporary or emergency in-home
34 caretakers and persons teaching and demonstrating homemaking
35 skills. The Legislature further declares that a physical disability,
36 such as blindness or deafness, is no bar to the raising of happy and
37 well-adjusted children and that a court's determination pursuant
38 to this section shall center upon whether a parent's disability
39 prevents him or her from exercising care and control. The
40 Legislature further declares that a child whose parent has been

1 adjudged a dependent child of the court pursuant to this section
2 shall not be considered to be at risk of abuse or neglect solely
3 because of the age, dependent status, or foster care status of the
4 parent.

5 As used in this section, “guardian” means the legal guardian of
6 the child.

7 *SEC. 65. Section 10104 of the Welfare and Institutions Code*
8 *is amended to read:*

9 10104. (a) It is the intent of the Legislature to ensure that the
10 impacts of the 2011 realignment of child welfare services, foster
11 care, adoptions, and adult protective services programs are
12 identified and ~~evaluated~~, *evaluated* initially and over time. It is
13 further the intent of the Legislature to ensure that information
14 regarding these impacts is publicly available and accessible and
15 can be utilized to support the state’s and counties’ effectiveness
16 in delivering these critical services and supports.

17 ~~(a)~~

18 (b) The State Department of Social Services shall annually
19 report to the appropriate fiscal and policy committees of the
20 Legislature, and publicly post on the department’s Internet Web
21 site, *site* a summary of outcome and expenditure data that allows
22 for monitoring of changes over time.

23 ~~(b)~~

24 (c) The report shall be submitted and posted by April 15 of each
25 year and shall contain expenditures for each county for the
26 programs described in clauses (i) to (vii), inclusive, of
27 subparagraph (A) of ~~paragraph (9)~~ *paragraph (16)* of subdivision
28 (f) of Section 30025 of the Government Code. *To the extent that*
29 *the information is readily or publicly available, the report shall*
30 *also contain the amount of funds each county receives from the*
31 *Protective Services Growth Special Account created pursuant to*
32 *Section 30025 of the Government Code, child welfare services*
33 *social worker caseloads per county, and the number of authorized*
34 *positions in the local child welfare services agency.*

35 ~~(c)~~

36 (d) The department shall consult with legislative staff and with
37 stakeholders to develop a reporting format consistent with the
38 Legislature’s desired level of outcome and expenditure reporting
39 detail.

1 *SEC. 66. Section 10553.11 of the Welfare and Institutions Code*
2 *is amended to read:*

3 10553.11. (a) Effective July 1, 2011, notwithstanding any
4 ~~other provision of law or regulation~~, a tribe, consortium of tribes,
5 or a tribal organization that is operating a program pursuant to an
6 agreement with the department under Section 10553.1, shall be
7 responsible for the following share of costs:

8 (1) For the adequate care of each child receiving AFDC-FC as
9 identified in subdivision (d) of Section 11450, the tribal share shall
10 be 60 percent of the nonfederal share. For nonfederally eligible
11 costs, the tribal share shall be 60 percent of the costs.

12 (2) For administrative costs of administering the AFDC-FC
13 program, the tribal share shall be 30 percent of the nonfederal
14 share. For nonfederally eligible administrative costs, the tribal
15 share shall be 30 percent of the costs.

16 (3) For the provision of child welfare services pursuant to
17 Section 10101, the tribal share shall be 30 percent of the nonfederal
18 share. For nonfederally eligible costs, the tribal share shall be 30
19 percent of the costs.

20 (4) For the provision of Title XIX child welfare services, the
21 tribal share shall be 30 percent of the nonfederal costs. For services
22 delivered by skilled professional medical personnel, reimbursement
23 may be claimed under Title XIX at an enhanced rate and the tribal
24 share shall be 30 percent of the nonfederal share.

25 (5) For wraparound services approved by the department for
26 children described in Section 18250, the tribal share shall be 60
27 percent of the costs.

28 (6) For the support and care of hard-to-place adoptive children,
29 the tribal share shall be 25 percent of the nonfederal share of the
30 amount specified in Section 16121. For nonfederally eligible
31 children, the tribal share shall be 25 percent of the costs.

32 (7) For monthly visitation of children placed in group homes,
33 there shall be no tribal share.

34 (8) For the support and care of former dependent children who
35 have been made wards of related guardians, the tribal share shall
36 be 21 percent of the nonfederal share. For nonfederally eligible
37 children, the tribal share shall be 21 percent of the costs. There
38 shall be no tribal share for federally eligible administrative costs.
39 For nonfederally eligible administrative costs, the tribal share shall
40 be 50 percent.

(9) For the cost of extending aid pursuant to Section 11403 to eligible nonminor dependents who have reached 18 years of age and who are under the jurisdiction of the tribal program, the tribal share shall be 21 percent of the nonfederal share.

(b) Notwithstanding subdivision (a), commencing July 1, 2014, a tribe, consortium of tribes, or a tribal organization, that is operating a program pursuant to an agreement with the department under Section 10553.1, shall be responsible for the share of costs, as follows:

(1) For the adequate care of each child receiving AFDC-FC as identified in subdivision (d) of Section 11450, there shall be no tribal share of costs of the nonfederal share with an enhanced federal medical assistance percentage of 80 percent or higher. If the federal medical assistance percentage is below 80 percent, the tribal share of cost shall be 60 percent of the nonfederal share. For nonfederally eligible costs, there shall be no tribal share unless the federal medical assistance percentage for federally eligible cases is below 80 percent, in which case the tribal share for nonfederally eligible costs shall be 60 percent.

(2) For administrative costs of administering the AFDC-FC program, the tribal share shall be 30 percent of the nonfederal share. For nonfederally eligible administrative costs, the tribal share shall be 30 percent of the costs.

(3) For the provision of child welfare services pursuant to Section 10101, the tribal share shall be 30 percent of the nonfederal share. For nonfederally eligible costs, the tribal share shall be 30 percent of the costs.

(4) For the provision of child welfare services under Title XIX of the federal Social Security Act, the tribal share shall be 30 percent of the nonfederal share. For services delivered by skilled professional medical personnel, reimbursement may be claimed under Title XIX of the federal Social Security Act at an enhanced rate and the tribal share shall be 30 percent of the nonfederal share.

(5) For wraparound services approved by the department for children described in Section 18250, there shall be no tribal share of the costs with an enhanced federal medical assistance percentage of 80 percent or higher. If the federal medical assistance percentage is below 80 percent, the tribal share of cost shall be 60 percent of the nonfederal share.

1 (6) *For the support and care of hard-to-place adoptive children,*
2 *there shall be no tribal share of cost of the nonfederal share of the*
3 *amount specified in Section 16121 with an enhanced federal*
4 *medical assistance percentage of 62.5 percent or higher. If the*
5 *federal medical assistance percentage is below 62.5 percent, the*
6 *tribal share of cost shall be 25 percent of the nonfederal share.*
7 *For nonfederally eligible costs, there shall be no tribal share unless*
8 *the federal medical assistance percentage for federally eligible*
9 *cases is below 62.5 percent, in which case the tribal share for*
10 *nonfederally eligible costs shall be 25 percent.*

11 (7) *For monthly visitation of children placed in group homes,*
12 *there shall be no tribal share.*

13 (8) *For the support and care of former dependent children who*
14 *have been made wards of related guardians, there shall be no*
15 *tribal share of cost of the nonfederal share with an enhanced*
16 *federal medical assistance percentage of 60.5 percent or higher.*
17 *If the federal medical assistance percentage is below 60.5 percent,*
18 *the tribal share shall be 21 percent of the nonfederal share. For*
19 *nonfederally eligible costs, there shall be no tribal share unless*
20 *the federal medical assistance percentage for federally eligible*
21 *cases is below 60.5 percent, in which case the tribal share for*
22 *nonfederally eligible costs shall be 21 percent. For nonfederally*
23 *eligible administrative costs, the tribal share shall be 50 percent.*

24 (9) *For the cost of extending aid pursuant to Section 11403 to*
25 *eligible nonminor dependents who have reached 18 years of age*
26 *and who are under the jurisdiction of the tribal program, the tribal*
27 *share shall be based on the sharing ratios set forth in paragraphs*
28 *(1), (5), (6), and (8).*

29 ~~(b)~~

30 (c) *Notwithstanding any other law or regulation, for programs,*
31 *services, or administrative costs provided pursuant to Section*
32 *10553.1, but for which the sharing ratios are not specified in this*
33 *section, the tribal share of costs shall be equal to the county*
34 *statutory share of costs as set forth in statutory sharing ratios for*
35 *each of these programs as in effect on June 30, 2011.*

36 ~~(e)~~

37 (d) *Notwithstanding any other law, for the purposes of this*
38 *section, the nonfederal costs for programs, services, or*
39 *administrative costs provided pursuant to Section 10553.1 shall*
40 *be borne by the tribe, consortium of tribes, or tribal organization,*

1 and the state. However, in the event that an Indian child is
2 transferred from the tribal program to the jurisdiction of the county,
3 the costs for the child shall be borne by the county as for any other
4 child under the county's jurisdiction.

5 *SEC. 67. Section 11320.32 of the Welfare and Institutions Code*
6 *is amended to read:*

7 11320.32. (a) The department shall administer a voluntary
8 Temporary Assistance Program (TAP) for current and future
9 CalWORKs recipients who meet the exemption criteria for work
10 participation activities set forth in Section 11320.3, and are not
11 single parents who have a child under the age of one year.
12 Temporary Assistance Program recipients shall be entitled to the
13 same assistance payments and other benefits as recipients under
14 the CalWORKs program. The purpose of this program is to provide
15 cash assistance and other benefits to eligible families without any
16 federal restrictions or requirements and without any adverse impact
17 on recipients. The Temporary Assistance Program shall commence
18 no later than October 1, ~~2014~~, 2016.

19 (b) CalWORKs recipients who meet the exemption criteria for
20 work participation activities set forth in subdivision (b) of Section
21 11320.3, and are not single parents with a child under the age of
22 one year, shall have the option of receiving grant payments, child
23 care, and transportation services from the Temporary Assistance
24 Program. The department shall notify all CalWORKs recipients
25 and applicants meeting the exemption criteria specified in
26 subdivision (b) of Section 11320.3, except for single parents with
27 a child under the age of one year, of their option to receive benefits
28 under the Temporary Assistance Program. Absent written
29 indication that these recipients or applicants choose not to receive
30 assistance from the Temporary Assistance Program, the department
31 shall enroll CalWORKs recipients and applicants into the program.
32 However, exempt volunteers shall remain in the CalWORKs
33 program unless they affirmatively indicate, in writing, their interest
34 in enrolling in the Temporary Assistance Program. A Temporary
35 Assistance Program recipient who no longer meets the exemption
36 criteria set forth in Section 11320.3 shall be enrolled in the
37 CalWORKs program.

38 (c) Funding for grant payments, child care, transportation, and
39 eligibility determination activities for families receiving benefits
40 under the Temporary Assistance Program shall be funded with

1 General Fund resources that do not count toward the state's
2 maintenance of effort requirements under clause (i) of subparagraph
3 (B) of paragraph (7) of subdivision (a) of Section 609 of Title 42
4 of the United States Code, up to the caseload level equivalent to
5 the amount of funding provided for this purpose in the annual
6 Budget Act.

7 (d) It is the intent of the Legislature that recipients shall have
8 and maintain access to the hardship exemption and the services
9 necessary to begin and increase participation in welfare-to-work
10 activities, regardless of their county of origin, and that the number
11 of recipients exempt under subdivision (b) of Section 11320.3 not
12 significantly increase due to factors other than changes in caseload
13 characteristics. All relevant state law applicable to CalWORKs
14 recipients shall also apply to families funded under this section.
15 ~~Nothing in this~~ *This section modifies does not modify* the criteria
16 for exemption in Section 11320.3.

17 (e) To the extent that this section is inconsistent with federal
18 regulations regarding implementation of the Deficit Reduction Act
19 of 2005, the department may amend the funding structure for
20 exempt families to ensure consistency with these regulations, not
21 later than 30 days after providing written notification to the chair
22 of the Joint Legislative Budget Committee and the chairs of the
23 appropriate policy and fiscal committees of the Legislature.

24 *SEC. 68. Section 11322.8 of the Welfare and Institutions Code*
25 *is amended to read:*

26 11322.8. (a) For a recipient required to participate in
27 accordance with paragraph (1) of subdivision (a) of Section
28 11322.85, unless the recipient is otherwise exempt, the following
29 shall apply:

30 (1) (A) An adult recipient in a one-parent assistance unit that
31 does not include a child under six years of age shall participate in
32 welfare-to-work activities for *an average of at least 30 hours each*
33 ~~week. per week during the month.~~

34 (B) An adult recipient in a one-parent assistance unit that
35 includes a child under six years of age shall participate in
36 welfare-to-work activities for *an average of at least 20 hours each*
37 ~~week. per week during the month.~~

38 (2) An adult recipient who is an unemployed parent, as defined
39 in Section 11201, shall participate ~~in~~ *for an average of* at least 35
40 hours of welfare-to-work activities ~~each week. per week during~~

1 *the month*. However, both parents in a two-parent assistance unit
2 may contribute to the 35 hours.

3 (b) For a recipient required to participate in accordance with
4 paragraph (3) of subdivision (a) of Section 11322.85, the following
5 shall apply:

6 (1) Unless otherwise exempt, an adult recipient in a one-parent
7 assistance unit shall participate in welfare-to-work activities for
8 *an average of at least 30 hours per week, week during the month*,
9 subject to the special rules and limitations described in Section
10 607(c)(1)(A) of Title 42 of the United States Code as of ~~the~~
11 ~~operative date of this section, as provided in subdivision (e).~~
12 *January 1, 2013.*

13 (2) Unless otherwise exempt, an adult recipient in a one-parent
14 assistance unit that includes a child under six years of age shall
15 participate in welfare-to-work activities for *an average of at least*
16 *20 hours each week, per week during the month*, as described in
17 Section 607(c)(2)(B) of Title 42 of the United States Code as of
18 ~~the operative date of this section, as provided in subdivision (e).~~
19 *January 1, 2013.*

20 (3) Unless otherwise exempt, an adult recipient who is an
21 unemployed parent, as defined in Section 11201, shall participate
22 in welfare-to-work activities for *an average of at least 35 hours*
23 *per week, week during the month*, subject to the special rules and
24 limitations described in Section 607(c)(1)(B) of Title 42 of the
25 United States Code as of ~~the operative date of this section, as~~
26 ~~provided in subdivision (e).~~ *January 1, 2013.*

27 ~~(e) This section shall become operative on January 1, 2013.~~

28 *SEC. 69. Section 11325.24 of the Welfare and Institutions Code*
29 *is amended to read:*

30 11325.24. (a) If, in the course of appraisal pursuant to Section
31 11325.2 or at any point during an individual's participation in
32 welfare-to-work activities in accordance with paragraph (1) of
33 subdivision (a) of Section 11322.85, it is determined that a recipient
34 meets the criteria described in subdivision (b), the recipient shall
35 be eligible to participate in family stabilization.

36 (b) (1) A recipient shall be eligible to participate in family
37 stabilization if the county determines that his or her family is
38 experiencing an identified situation or crisis that is destabilizing
39 the family and would interfere with participation in welfare-to-work
40 activities and services.

(2) A situation or a crisis that is destabilizing the family in accordance with paragraph (1) may include, but shall not be limited to:

- (A) Homelessness or imminent risk of homelessness.
- (B) A lack of safety due to domestic violence.
- (C) Untreated or undertreated behavioral needs, including mental health or substance abuse-related needs.

(c) Family stabilization shall include intensive case management and services designed to support the family in overcoming the situation or crisis, which may include, but are not limited to, welfare-to-work activities.

(d) Funds allocated for family stabilization in accordance with this section shall be in addition to, and independent of, the county allocations made pursuant to Section 15204.2.

(e) Funds allocated for family stabilization in accordance with this section, or the county allocations made pursuant to Section 15204.2, may be used to provide housing and other needed services to a family during any month that a family is participating in family stabilization.

~~(e)~~

(f) Each county shall submit to the department a plan, as defined by the department, regarding how it intends to implement the provisions of this section and shall report information to the department, including, but not limited to, the number of recipients served pursuant to this section, information regarding the services provided, outcomes for the families served, and any lack of availability of services. The department shall provide an update regarding this information to the Legislature during the 2014–15 budget process.

~~(f) This section shall become operative on January 1, 2014.~~

(g) It is the intent of the Legislature that family stabilization is a voluntary component intended to provide needed services and constructive interventions for parents and to assist in barrier removal for families facing very difficult needs. Participants in family stabilization are encouraged to participate, but the Legislature does not intend that parents be sanctioned as part of their experience in this program component. The Legislature further intends that recipients refusing or unable to follow their family stabilization plans without good cause be returned to the traditional welfare-to-work program.

1 *SEC. 70. Article 3.3 (commencing with Section 11330) is added*
2 *to Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions*
3 *Code, to read:*

4
5 *Article 3.3. CalWORKs Housing Support*
6

7 *11330. The Legislature finds and declares all of the following:*
8 *(a) Stable housing is a fundamental component of self-sufficiency*
9 *and child well-being.*

10 *(b) According to the National Alliance to End Homelessness,*
11 *residential stability is a necessary precursor to effectively*
12 *addressing barriers that inhibit self-sufficiency, and research is*
13 *clear that children who lack safe and stable housing demonstrate*
14 *worse academic and social outcomes.*

15 *(c) Housing support in the CalWORKs program is minimal and*
16 *families struggle to find and retain safe, affordable, and stable*
17 *housing.*

18 *(d) Expanding homeless and housing support in the CalWORKs*
19 *program would help meet a critical need for families working to*
20 *achieve self-sufficiency.*

21 *11330.5. (a) A recipient shall be eligible to receive CalWORKs*
22 *housing supports if the county determines that his or her family is*
23 *experiencing homelessness or housing instability that would be a*
24 *barrier to self-sufficiency or child well-being.*

25 *(b) Notwithstanding subdivision (a), this section does not create*
26 *an entitlement to housing supports, which are intended to be a*
27 *service to CalWORKs families and not a form of assistance, to be*
28 *provided to families at the discretion of the county.*

29 *(c) It is the intent of the Legislature that housing supports*
30 *provided pursuant to this article utilize evidence-based models,*
31 *including those established in the federal Department of Housing*
32 *and Urban Development's Homeless Prevention and Rapid*
33 *Re-Housing Program. Supports provided may include, but shall*
34 *not be limited to, all of the following:*

35 *(1) Financial assistance, including rental assistance, security*
36 *deposits, utility payments, moving cost assistance, and motel and*
37 *hotel vouchers.*

38 *(2) Housing stabilization and relocation, including outreach*
39 *and engagement, landlord recruitment, case management, housing*
40 *search and placement, legal services, and credit repair.*

1 (d) *The asset limit threshold specified in subdivision (f) of*
2 *Section 11450 shall not be used to determine a family's eligibility*
3 *for receipt of housing supports provided pursuant to this article.*

4 (e) *Funds appropriated for purposes of this article shall be*
5 *allocated to participating counties by the State Department of*
6 *Social Services according to an allocation methodology developed*
7 *by the department in consultation with the County Welfare*
8 *Directors Association.*

9 (f) *The department, in consultation with the County Welfare*
10 *Directors Association and other stakeholders, shall develop each*
11 *of the following:*

12 (1) *The criteria by which counties may opt to participate in*
13 *providing housing supports to eligible CalWORKs recipients*
14 *pursuant to this article.*

15 (2) *The proportion of funding to be expended on reasonable*
16 *and appropriate administrative activities to minimize overhead*
17 *and maximize services.*

18 (3) *Tracking and reporting procedures.*

19 (g) *The department, in consultation with appropriate legislative*
20 *staff and the County Welfare Directors Association, shall*
21 *determine, in a manner that reflects the legislative intent for the*
22 *use of these funds and that is most beneficial to the overall*
23 *CalWORKs program, whether housing supports provided with*
24 *this funding are considered to be assistance or nonassistance*
25 *payments.*

26 SEC. 71. *Section 11402.4 of the Welfare and Institutions Code*
27 *is amended to read:*

28 11402.4. (a) *Subject to the conditions set forth in subdivisions*
29 (i) *and (c), and notwithstanding any other provision of law, with*
30 *respect to an approved home of a relative or nonrelative extended*
31 *family member for which an annual visit to ensure the quality of*
32 *care provided is pending, the relative or nonrelative extended*
33 *family member home's approval shall remain in full force and*
34 *effect. Payment to the relative or nonrelative extended family*
35 *member provider shall not be delayed or terminated solely due to*
36 *late completion of the annual visit to ensure the quality of care*
37 *provided.*

38 (b) *The frequency of required visits to ensure the quality of care*
39 *provided shall not be less than the frequency of visits for licensed*
40 *foster family homes as specified in paragraph (1) of subdivision*

1 ~~(a)~~ of Section 1534 of the Health and Safety Code. If late
2 completion of an annual visit occurs, under no circumstances shall
3 the county visit an approved home of a relative or nonrelative
4 extended family member less than once every 24 months.

5 (c) The frequency of required visits to ensure the quality of care
6 provided shall be subject to state plan approval.

7 *SEC. 72. Section 11450.025 of the Welfare and Institutions*
8 *Code is amended to read:*

9 11450.025. (a) (1) Notwithstanding any other law, effective
10 on March 1, 2014, the maximum aid payments in effect on July
11 1, 2012, as specified in subdivision (b) of Section 11450.02, shall
12 be increased by 5 percent.

13 (2) *Effective April 1, 2015, the maximum aid payments in effect*
14 *on July 1, 2014, as specified in paragraph (1), shall be increased*
15 *by 5 percent.*

16 (b) Commencing in 2014 and annually thereafter, on or before
17 January 10 and on or before May 14, the Director of Finance shall
18 do all of the following:

19 (1) Estimate the amount of growth revenues pursuant to
20 subdivision (f) of Section 17606.10 that will be deposited in the
21 Child Poverty and Family Supplemental Support Subaccount of
22 the Local Revenue Fund for the current fiscal year and the
23 following fiscal year and the amounts in the subaccount carried
24 over from prior fiscal years.

25 (2) For the current fiscal year and the following fiscal year,
26 determine the total cost of providing the ~~increase~~ *increases*
27 described in subdivision (a), as well as any other increase in the
28 maximum aid payments subsequently provided only under this
29 section, after adjusting for updated projections of CalWORKs
30 costs associated with caseload changes, as reflected in the local
31 assistance subvention estimates prepared by the State Department
32 of Social Services and released with the annual Governor's Budget
33 and subsequent May Revision update.

34 (3) If the amount estimated in paragraph (1) plus the amount
35 projected to be deposited for the current fiscal year into the Child
36 Poverty and Family Supplemental Support Subaccount pursuant
37 to subparagraph (3) of subdivision (e) of Section 17600.15 is
38 greater than the amount determined in paragraph (2), the difference
39 shall be used to calculate the percentage increase to the CalWORKs

1 maximum aid payment standards that could be fully funded on an
2 ongoing basis beginning the following fiscal year.

3 (4) If the amount estimated in paragraph (1) plus the amount
4 projected to be deposited for the current fiscal year into the Child
5 Poverty and Family Supplemental Support Subaccount pursuant
6 to subparagraph (3) of subdivision (e) of Section 17600.15 is equal
7 to or less than the amount determined in paragraph (2), no
8 additional increase to the CalWORKs maximum aid payment
9 standards shall be provided in the following fiscal year in
10 accordance with this section.

11 (5) (A) Commencing with the 2014–15 fiscal year and for all
12 fiscal years thereafter, if changes to the estimated amounts
13 determined in paragraphs (1) or (2), or both, as of the May
14 Revision, are enacted as part of the final budget, the Director of
15 Finance shall repeat, using the same methodology used in the May
16 Revision, the calculations described in paragraphs (3) and (4) using
17 the revenue projections and grant costs assumed in the enacted
18 budget.

19 (B) If a calculation is required pursuant to subparagraph (A),
20 the Department of Finance shall report the result of this calculation
21 to the appropriate policy and fiscal committees of the Legislature
22 upon enactment of the Budget Act.

23 (c) An increase in maximum aid payments calculated pursuant
24 to paragraph (3) of subdivision (b), or pursuant to paragraph (5)
25 of subdivision (b) if applicable, shall become effective on October
26 1 of the following fiscal year.

27 (d) (1) An increase in maximum aid payments provided in
28 accordance with this section shall be funded with growth revenues
29 from the Child Poverty and Family Supplemental Support
30 Subaccount in accordance with paragraph (3) of subdivision (e)
31 of Section 17600.15 and subdivision (f) of Section 17606.10, to
32 the extent funds are available in that subaccount.

33 (2) If funds received by the Child Poverty and Family
34 Supplemental Support Subaccount in a particular fiscal year are
35 insufficient to fully fund any increases to maximum aid payments
36 made pursuant to this section, the remaining cost for that fiscal
37 year will be addressed through existing provisional authority
38 included in the annual Budget Act. Additional grant increases shall
39 not be provided until and unless the ongoing cumulative costs of
40 all prior grant increases provided pursuant to this section are fully

1 funded by the Child Poverty and Family Supplemental Support
2 Subaccount.

3 (e) Notwithstanding Section 15200, counties shall not be
4 required to contribute a share of ~~cost~~ *the costs* to cover the ~~costs~~
5 of increases to maximum aid payments made pursuant to this
6 section.

7 *SEC. 73. Section 11460 of the Welfare and Institutions Code*
8 *is amended to read:*

9 11460. (a) Foster care providers shall be paid a per child per
10 month rate in return for the care and supervision of the AFDC-FC
11 child placed with them. The department is designated the single
12 organizational unit whose duty it shall be to administer a state
13 system for establishing rates in the AFDC-FC program. State
14 functions shall be performed by the department or by delegation
15 of the department to county welfare departments or Indian tribes,
16 consortia of tribes, or tribal organizations that have entered into
17 an agreement pursuant to Section 10553.1.

18 (b) "Care and supervision" includes food, clothing, shelter, daily
19 supervision, school supplies, a child's personal incidentals, liability
20 insurance with respect to a child, reasonable travel to the child's
21 home for visitation, and reasonable travel for the child to remain
22 in the school in which he or she is enrolled at the time of
23 placement. Reimbursement for the costs of educational travel, as
24 provided for in this subdivision, shall be made pursuant to
25 procedures determined by the department, in consultation with
26 representatives of county welfare and probation directors, and
27 additional stakeholders, as appropriate.

28 (1) For a child placed in a group home, care and supervision
29 shall also include reasonable administration and operational
30 activities necessary to provide the items listed in this subdivision.

31 (2) For a child placed in a group home, care and supervision
32 may also include reasonable activities performed by social workers
33 employed by the group home provider which are not otherwise
34 considered daily supervision or administration activities.

35 (c) It is the intent of the Legislature to establish the maximum
36 level of state participation in out-of-state foster care group home
37 program rates effective January 1, 1992.

38 (1) The department shall develop regulations that establish the
39 method for determining the level of state participation for each

1 out-of-state group home program. The department shall consider
2 all of the following methods:

3 (A) A standardized system based on the level of care and
4 services per child per month as detailed in Section 11462.

5 (B) A system which considers the actual allowable and
6 reasonable costs of care and supervision incurred by the program.

7 (C) A system which considers the rate established by the host
8 state.

9 (D) Any other appropriate methods as determined by the
10 department.

11 (2) State reimbursement for the AFDC-FC group home rate to
12 be paid to an out-of-state program on or after January 1, 1992,
13 shall only be paid to programs which have done both of the
14 following:

15 (A) Submitted a rate application to the department and received
16 a determination of the level of state participation.

17 (i) The level of state participation shall not exceed the current
18 fiscal year's standard rate for rate classification level 14.

19 (ii) The level of state participation shall not exceed the rate
20 determined by the ratesetting authority of the state in which the
21 facility is located.

22 (iii) The level of state participation shall not decrease for any
23 child placed prior to January 1, 1992, who continues to be placed
24 in the same out-of-state group home program.

25 (B) Agreed to comply with information requests, and program
26 and fiscal audits as determined necessary by the department.

27 (3) State reimbursement for an AFDC-FC rate paid on or after
28 January 1, 1993, shall only be paid to a group home organized and
29 operated on a nonprofit basis.

30 (d) A foster care provider that accepts payments, following the
31 effective date of this section, based on a rate established under this
32 section, shall not receive rate increases or retroactive payments as
33 the result of litigation challenging rates established prior to the
34 effective date of this section. This shall apply regardless of whether
35 a provider is a party to the litigation or a member of a class covered
36 by the litigation.

37 (e) Nothing shall preclude a county from using a portion of its
38 county funds to increase rates paid to family homes and foster
39 family agencies within that county, and to make payments for
40 specialized care increments, clothing allowances, or infant

1 supplements to homes within that county, solely at that county's
2 expense.

3 *(f) Nothing shall preclude a county from providing a*
4 *supplemental rate to serve commercially sexually exploited foster*
5 *children to provide for the additional care and supervision needs*
6 *of these children. To the extent that federal financial participation*
7 *is available, it is the intent of the Legislature that the federal*
8 *funding shall be utilized.*

9 SEC. 74. Section 11461.3 is added to the Welfare and
10 Institutions Code, to read:

11 11461.3. (a) *The Approved Relative Caregiver Funding Option*
12 *Program is hereby established for the purpose of making the*
13 *amount paid to approved relative caregivers for the in-home care*
14 *of children placed with them who are ineligible for AFDC-FC*
15 *payments equal to the amount paid on behalf of children who are*
16 *eligible for AFDC-FC payments. This is an optional program for*
17 *counties choosing to participate, and in so doing, participating*
18 *counties agree to the terms of this section as a condition of their*
19 *participation. It is the intent of the Legislature that the funding*
20 *described in paragraph (1) of subdivision (e) for the Approved*
21 *Relative Caregiver Funding Option Program be appropriated,*
22 *and available for use from January through December of each*
23 *year, unless otherwise specified.*

24 (b) *Subject to subdivision (c), effective January 1, 2015, counties*
25 *shall pay an approved relative caregiver a per child per month*
26 *rate in return for the care and supervision, as defined in*
27 *subdivision (b) of Section 11460, of a child that is placed with the*
28 *relative caregiver that is equal to the basic rate paid to foster care*
29 *providers pursuant to subdivision (g) of Section 11461, if both of*
30 *the following conditions are met:*

31 (1) *The county with payment responsibility has notified the*
32 *department in writing by October 1 of the year before participation*
33 *begins of its decision to participate in the Approved Relative*
34 *Caregiver Funding Option Program.*

35 (2) *The related child placed in the home meets all of the*
36 *following requirements:*

37 (A) *The child resides in the State of California.*

38 (B) *The child is described by subdivision (b), (c), or (e) of*
39 *Section 11401 and is not eligible for AFDC-FC pursuant to*
40 *subdivision (a) of Section 11404.*

1 (C) *The child is not eligible for AFDC-FC while placed with*
2 *the approved relative caregiver because the child is not eligible*
3 *for federal financial participation in the AFDC-FC payment.*

4 (c) *A county's election to participate in the Approved Relative*
5 *Caregiver Funding Option Program shall affirmatively indicate*
6 *that the county understands and agrees to all of the following*
7 *conditions:*

8 (1) *Commencing October 1, 2014, the county shall notify the*
9 *department in writing of its decision to participate in the Approved*
10 *Relative Caregiver Funding Option Program. Failure to make*
11 *timely notification, without good cause as determined by the*
12 *department, shall preclude the county from participating in the*
13 *program for the upcoming year. Annually thereafter, any county*
14 *not presently participating who elects to do so shall notify the*
15 *department in writing no later than October 1 of its decision to*
16 *participate for the upcoming calendar year.*

17 (2) *The county shall confirm that it will make per child per*
18 *month payments to all approved relative caregivers on behalf of*
19 *eligible children in the amount specified in subdivision (b) for the*
20 *duration of the participation of the county in this program.*

21 (3) *The county shall confirm that it will be solely responsible*
22 *to pay any additional costs needed to make all payments pursuant*
23 *to subdivision (b) if the state and federal funds allocated to the*
24 *Approved Relative Caregiver Funding Option Program pursuant*
25 *to paragraph (1) of subdivision (e) are insufficient to make all*
26 *eligible payments.*

27 (d) (1) *A county deciding to opt out of the Approved Relative*
28 *Caregiver Funding Option Program shall provide at least 120*
29 *days' prior written notice of that decision to the department.*
30 *Additionally, the county shall provide at least 90 days' prior*
31 *written notice to the approved relative caregiver or caregivers*
32 *informing them that his or her per child per month payment will*
33 *be reduced and the date that the reduction will occur.*

34 (2) *The department shall presume all counties have opted out*
35 *of the Approved Relative Caregiver Funding Option Program if*
36 *the funding appropriated in subclause (II) of clause (i) of*
37 *subparagraph (B) of paragraph (1) of subdivision (e), including*
38 *any additional funds appropriated pursuant to clause (ii) of*
39 *subparagraph (B) of paragraph (1) of subdivision (e), is reduced,*
40 *unless a county notifies the department in writing of its intent to*

1 *opt in within 60 days of enactment of the state budget. The counties*
2 *shall provide at least 90 days' prior written notice to the approved*
3 *relative caregiver or caregivers informing them that his or her per*
4 *child per month payment will be reduced, and the date that the*
5 *reduction will occur.*

6 *(3) Any reduction in payments received by an approved relative*
7 *caregiver on behalf of a child under this section that results from*
8 *a decision by a county, including the presumed opt-out pursuant*
9 *to paragraph (2), to not participate in the Approved Relative*
10 *Caregiver Funding Option Program shall be exempt from state*
11 *hearing jurisdiction under Section 10950.*

12 *(e) (1) The following funding shall be used for the Approved*
13 *Relative Caregiver Funding Option Program:*

14 *(A) The applicable regional per-child CalWORKs grant from*
15 *federal funds received as part of the TANF block grant program.*

16 *(B) (i) General Fund resources that do not count toward the*
17 *state's maintenance of effort requirements under Section*
18 *609(a)(7)(B)(i) of Title 42 of the United States Code. For this*
19 *purpose, the following money is hereby appropriated:*

20 *(I) The sum of thirty million dollars (\$30,000,000) from the*
21 *General Fund for the period January 1, 2015 through December*
22 *31, 2015.*

23 *(II) The sum of thirty million dollars (\$30,000,000) from the*
24 *General Fund in each calendar year thereafter, as cumulatively*
25 *adjusted annually by the California Necessities Index used for*
26 *each May Revision of the Governor's Budget, to be used in each*
27 *respective calendar year.*

28 *(ii) To the extent that the appropriation made in subclause (I)*
29 *is insufficient to fully fund the base caseload of approved relative*
30 *caregivers as of July 1, 2014, for the period of time described in*
31 *subclause (I), as jointly determined by the department and the*
32 *County Welfare Directors' Association and approved by the*
33 *Department of Finance on or before October 1, 2015, the amounts*
34 *specified in subclauses (I) and (II) shall be increased in the*
35 *respective amounts necessary to fully fund that base caseload.*
36 *Thereafter, the adjusted amount of subclause (II), and the other*
37 *terms of that provision, including an annual California Necessities*
38 *Index adjustment to its amount, shall apply.*

39 *(C) County funds only to the extent required under paragraph*
40 *(3) of subdivision (c).*

(D) This section is intended to appropriate the funding necessary to fully fund the base caseload of approved relative caregivers, defined as the number of approved relative caregivers caring for a child who is not eligible to receive AFDC-FC payments, as of July 1, 2014.

(2) Funds available pursuant to subparagraphs (A) and (B) of paragraph (1) shall be allocated to participating counties proportionate to the number of their approved relative caregiver placements, using a methodology and timing developed by the department, following consultation with county human services agencies and their representatives.

(3) Notwithstanding subdivision (c), if in any calendar year the entire amount of funding appropriated by the state for the Approved Relative Caregiver Funding Option Program has not been fully allocated to or utilized by counties, a county that has paid any funds pursuant to subparagraph (C) of paragraph (1) of subdivision (e) may request reimbursement for those funds from the department. The authority of the department to approve the requests shall be limited by the amount of available unallocated funds.

(f) An approved relative caregiver receiving payments on behalf of a child pursuant to this section shall not be eligible to receive additional CalWORKs payments on behalf of the same child under Section 11450.

(g) To the extent permitted by federal law, payments received by the approved relative caregiver from the Approved Relative Caregiver Funding Option Program shall not be considered income for the purpose of determining other public benefits.

(h) Prior to referral of any individual or recipient, or that person's case, to the local child support agency for child support services pursuant to Section 17415 of the Family Code, the county human services agency shall determine if an applicant or recipient has good cause for noncooperation, as set forth in Section 11477.04. If the applicant or recipient claims good cause exception at any subsequent time to the county human services agency or the local child support agency, the local child support agency shall suspend child support services until the county social services agency determines the good cause claim, as set forth in Section 11477.04. If good cause is determined to exist, the local child support agency shall suspend child support services until the

1 applicant or recipient requests their resumption, and shall take
2 other measures that are necessary to protect the applicant or
3 recipient and the children. If the applicant or recipient is the parent
4 of the child for whom aid is sought and the parent is found to have
5 not cooperated without good cause as provided in Section
6 11477.04, the applicant's or recipient's family grant shall be
7 reduced by 25 percent for the time the failure to cooperate lasts.

8 (i) Consistent with Section 17552 of the Family Code, if aid is
9 paid under this chapter on behalf of a child who is under the
10 jurisdiction of the juvenile court and whose parent or guardian is
11 receiving reunification services, the county human services agency
12 shall determine, prior to referral of the case to the local child
13 support agency for child support services, whether the referral is
14 in the best interest of the child, taking into account both of the
15 following:

16 (1) Whether the payment of support by the parent will pose a
17 barrier to the proposed reunification in that the payment of support
18 will compromise the parent's ability to meet the requirements of
19 the parent's reunification plan.

20 (2) Whether the payment of support by the parent will pose a
21 barrier to the proposed reunification in that the payment of support
22 will compromise the parent's current or future ability to meet the
23 financial needs of the child.

24 SEC. 75. Section 11477 of the Welfare and Institutions Code
25 is amended to read:

26 11477. As a condition of eligibility for aid paid under this
27 chapter, each applicant or recipient shall do all of the following:

28 (a) (1) Do either of the following:

29 (i) For applications received before October 1, 2009, assign to
30 the county any rights to support from any other person the applicant
31 or recipient may have on his or her own behalf or on behalf of any
32 other family member for whom the applicant or recipient is
33 applying for or receiving aid, not exceeding the total amount of
34 cash assistance provided to the family under this chapter. Receipt
35 of public assistance under this chapter shall operate as an
36 assignment by operation of law. An assignment of support rights
37 to the county shall also constitute an assignment to the state. If
38 support rights are assigned pursuant to this subdivision, the
39 assignee may become an assignee of record by the local child
40 support agency or other public official filing with the court clerk

1 an affidavit showing that an assignment has been made or that
2 there has been an assignment by operation of law. This procedure
3 does not limit any other means by which the assignee may become
4 an assignee of record.

5 (ii) For applications received on or after October 1, 2009, assign
6 to the county any rights to support from any other person the
7 applicant or recipient may have on his or her own behalf, or on
8 behalf of any other family member for whom the applicant or
9 recipient is applying for or receiving aid. The assignment shall
10 apply only to support that accrues during the period of time that
11 the applicant is receiving assistance under this chapter, and shall
12 not exceed the total amount of cash assistance provided to the
13 family under this chapter. Receipt of public assistance under this
14 chapter shall operate as an assignment by operation of law. An
15 assignment of support rights to the county shall also constitute an
16 assignment to the state. If support rights are assigned pursuant to
17 this subdivision, the assignee may become an assignee of record
18 by the local child support agency or other public official filing
19 with the court clerk an affidavit showing that an assignment has
20 been made or that there has been an assignment by operation of
21 law. This procedure does not limit any other means by which the
22 assignee may become an assignee of record.

23 (2) Support that has been assigned pursuant to paragraph (1)
24 and that accrues while the family is receiving aid under this chapter
25 shall be permanently assigned until the entire amount of aid paid
26 has been reimbursed.

27 (3) If the federal government does not permit states to adopt the
28 same order of distribution for preassistance and postassistance
29 child support arrears that are assigned on or after October 1, 1998,
30 support arrears that accrue before the family receives aid under
31 this chapter that are assigned pursuant to this subdivision shall be
32 assigned as follows:

33 (A) Child support assigned prior to January 1, 1998, shall be
34 permanently assigned until aid is no longer received and the entire
35 amount of aid has been reimbursed.

36 (B) Child support assigned on or after January 1, 1998, but prior
37 to October 1, 2000, shall be temporarily assigned until aid under
38 this chapter is no longer received and the entire amount of aid paid
39 has been reimbursed or until October 1, 2000, whichever comes
40 first.

1 (C) On or after October 1, 2000, support assigned pursuant to
2 this subdivision that was not otherwise permanently assigned shall
3 be temporarily assigned to the county until aid is no longer
4 received.

5 (D) On or after October 1, 2000, support that was temporarily
6 assigned pursuant to this subdivision shall, when a payment is
7 received from the federal tax intercept program, be temporarily
8 assigned until the entire amount of aid paid has been reimbursed.

9 (4) If the federal government permits states to adopt the same
10 order of distribution for preassistance and postassistance child
11 support arrears, child support arrears shall be assigned, as follows:

12 (A) Child support assigned pursuant to this subdivision prior
13 to October 1, 1998, shall be assigned until aid under this chapter
14 is no longer received and the entire amount has been reimbursed.

15 (B) On or after October 1, 1998, child support assigned pursuant
16 to this subdivision that accrued before the family receives aid under
17 this chapter and that was not otherwise permanently assigned, shall
18 be temporarily assigned until aid under this chapter is no longer
19 received.

20 (C) On or after October 1, 1998, support that was temporarily
21 assigned pursuant to this subdivision shall, when a payment is
22 received from the federal tax intercept program, be temporarily
23 assigned until the entire amount of aid paid has been reimbursed.

24 (b) (1) Cooperate with the county welfare department and local
25 child support agency in establishing the paternity of a child of the
26 applicant or recipient born out of wedlock with respect to whom
27 aid is claimed, and in establishing, modifying, or enforcing a
28 support order with respect to a child of the individual for whom
29 aid is requested or obtained, unless the applicant or recipient
30 qualifies for a good cause exception ~~as provided in~~ *pursuant to*
31 Section 11477.04. The granting of aid shall not be delayed or
32 denied if the applicant is otherwise eligible, if the applicant
33 completes the necessary forms and agrees to cooperate with the
34 local child support agency in securing support and determining
35 paternity, ~~where~~ *if* applicable. The local child support agency shall
36 have staff available, in person or by telephone, at all county welfare
37 offices and shall conduct an interview with each applicant to obtain
38 information necessary to establish paternity and establish, modify,
39 or enforce a support order at the time of the initial interview with
40 the welfare office. The local child support agency shall make the

1 determination of cooperation. If the applicant or recipient attests
2 under penalty of perjury that he or she cannot provide the
3 information required by this subdivision, the local child support
4 agency shall make a finding regarding whether the individual could
5 reasonably be expected to provide the ~~information~~, information
6 before the local child support agency determines whether the
7 individual is cooperating. In making the finding, the local child
8 support agency shall consider all of the following:

9 (A) The age of the child for whom support is sought.

10 (B) The circumstances surrounding the conception of the child.

11 (C) The age or mental capacity of the parent or caretaker of the
12 child for whom aid is being sought.

13 (D) The time that has elapsed since the parent or caretaker last
14 had contact with the alleged father or obligor.

15 (2) Cooperation includes *all of* the following:

16 (A) Providing the name of the alleged parent or obligor and
17 other information about that person if known to the applicant or
18 recipient, such as address, social security number, telephone
19 number, place of employment or school, and the names and
20 addresses of relatives or associates.

21 (B) Appearing at interviews, hearings, and legal proceedings
22 provided the applicant or recipient is provided with reasonable
23 advance notice of the interview, hearing, or legal proceeding and
24 does not have good cause not to appear.

25 (C) If paternity is at issue, submitting to genetic tests, including
26 genetic testing of the child, if necessary.

27 (D) Providing any additional information known to or reasonably
28 obtainable by the applicant or recipient necessary to establish
29 paternity or to establish, modify, or enforce a child support order.

30 (3) A recipient or applicant shall not be required to sign a
31 voluntary declaration of paternity, as set forth in Chapter 3
32 (commencing with Section 7570) of Part 2 of Division 12 of the
33 Family Code, as a condition of cooperation.

34 (c) *This section shall not apply if all of the adults are excluded*
35 *from the assistance unit pursuant to Section 11251.3, 11454, or*
36 *11486.5.*

37 (d) *It is the intent of the Legislature that the regular receipt of*
38 *child support in the preceding reporting period be considered in*
39 *determining reasonably anticipated income for the following*
40 *reporting period.*

1 SEC. 76. Section 12300.4 is added to the Welfare and
2 Institutions Code, to read:

3 12300.4. (a) Notwithstanding any other law, including, but
4 not limited to, Chapter 10 (commencing with Section 3500) of
5 Division 4 of Title 1 of the Government Code and Title 23
6 (commencing with Section 110000) of the Government Code, a
7 recipient who is authorized to receive in-home supportive services
8 pursuant to this article, or Section 14132.95, 14132.952, or
9 14132.956, administered by the State Department of Social
10 Services, or waiver personal care services pursuant to Section
11 14132.97, administered by the State Department of Health Care
12 Services, or any combination of these services, shall direct these
13 authorized services, and the authorized services shall be performed
14 by a provider or providers within a workweek and in a manner
15 that complies with the requirements of this section.

16 (b) (1) A workweek is defined as beginning at 12:00 a.m. on
17 Sunday and includes the next consecutive 168 hours, terminating
18 at 11:59 p.m. the following Saturday.

19 (2) A provider of services specified in subdivision (a) shall not
20 work a total number of hours within a workweek that exceeds 66,
21 as reduced by the net percentage defined by Sections 12301.02
22 and 12301.03, as applicable, and in accordance with subdivision
23 (d). The total number of hours worked within a workweek by a
24 provider is defined as the sum of the following:

25 (A) All hours worked providing authorized services specified
26 in subdivision (a).

27 (B) Travel time as defined in subdivision (f), only if federal
28 financial participation is not available to compensate for that
29 travel time. If federal financial participation is available for travel
30 time as defined in subdivision (f), the travel time shall not be
31 included in the calculation of the total weekly authorized hours of
32 services.

33 (3) (A) If the authorized in-home supportive services of a
34 recipient cannot be provided by a single provider as a result of
35 the limitation specified in paragraph (2), it is the responsibility of
36 the recipient to employ an additional provider or providers, as
37 needed, to ensure his or her authorized services are provided
38 within his or her total weekly authorized hours of services
39 established pursuant to subdivision (b) of Section 12301.1.

1 (B) If the provider of authorized waiver personal care services
2 cannot provide those services to a recipient as a result of the
3 limitation specified in paragraph (2), the State Department of
4 Health Care Services shall work with the recipient to engage
5 additional providers, as necessary. It is the intent of the Legislature
6 that this section shall not result in reduced services authorized to
7 recipients of waiver personal care services defined in subdivision
8 (a).

9 (4) (A) A provider shall inform each of his or her recipients of
10 the number of hours that the provider is available to work for that
11 recipient, in accordance with this section.

12 (B) A recipient, his or her authorized representative, or any
13 other entity, including any person or entity providing services
14 pursuant to Section 14186.35, shall not authorize any provider to
15 work hours that exceed the applicable limitation or limitations of
16 this section.

17 (C) A recipient may authorize a provider to work hours in excess
18 of the recipient's weekly authorized hours established pursuant to
19 Section 12301.1 without notification of the county welfare
20 department, in accordance with both of the following:

21 (i) The authorization does not result in more than 40 hours of
22 authorized services per week being provided.

23 (ii) The authorization does not exceed the recipient's authorized
24 hours of monthly services pursuant to paragraph (1) of subdivision
25 (b) of Section 12301.1.

26 (5) For providers of in-home supportive services, the State
27 Department of Social Services or a county may terminate the
28 provider from providing services under the IHSS program if a
29 provider continues to violate the limitations of this section on
30 multiple occasions.

31 (c) Notwithstanding any other law, only federal law and
32 regulations regarding overtime compensation apply to providers
33 of services defined in subdivision (a).

34 (d) A provider of services defined in subdivision (a) is subject
35 to all of the following, as applicable to his or her situation:

36 (1) A provider who works for an individual recipient of those
37 services shall not work a total number of hours within a workweek
38 that exceeds 66 hours, as reduced by the net percentage defined
39 by Sections 12301.02 and 12301.03, as applicable. In no
40 circumstance shall the provision of these services by that provider

1 to the individual recipient exceed the total weekly hours of the
2 services authorized to that recipient, except as additionally
3 authorized pursuant to subparagraph (C) of paragraph (4) of
4 subdivision (b). If multiple providers serve the same recipient, it
5 shall continue to be the responsibility of that recipient or his or
6 her authorized representative to schedule the work of his or her
7 providers to ensure the authorized services of the recipient are
8 provided in accordance with this section.

9 (2) A provider of in-home supportive services described in
10 subdivision (a) who serves multiple recipients is not authorized
11 to, and shall not, work more than 66 total hours in a workweek,
12 as reduced by the net percentage defined by Sections 12301.02
13 and 12301.03, as applicable, regardless of the number of recipients
14 for whom the provider provides services authorized by subdivision
15 (a). Providers are subject to the limits of each recipient's total
16 authorized weekly hours of in-home supportive services described
17 in subdivision (a), except as additionally authorized pursuant to
18 subparagraph (C) of paragraph (4) of subdivision (b).

19 (e) Recipients and providers shall be informed of the limitations
20 and requirements contained in this section, through notices at
21 intervals and on forms as determined by the State Department of
22 Social Services or the State Department of Health Care Services,
23 as applicable, following consultation with stakeholders.

24 (f) (1) A provider of services described in subdivision (a) shall
25 not engage in travel time in excess of seven hours per week. For
26 the purposes of this subdivision, "travel time" means time spent
27 traveling directly from a location where authorized services
28 specified in subdivision (a) are provided to one recipient, to
29 another location where authorized services are to be provided to
30 another recipient. A provider shall coordinate hours of work with
31 his or her recipient or recipients to comply with this section.

32 (2) The hourly wage to compensate a provider for travel time
33 described in this subdivision when the travel is between two
34 counties shall be the hourly wage of the destination county.

35 (3) Travel time, and compensation for that travel time, between
36 a recipient of authorized in-home supportive services specified in
37 subdivision (a) and a recipient of authorized waiver personal care
38 services specified in subdivision (a), shall be attributed to the
39 program authorizing services for the recipient to whom the
40 provider is traveling.

1 (4) *Hours spent by a provider while engaged in travel time shall*
2 *not be deducted from the authorized hours of service of any*
3 *recipient of services specified in subdivision (a).*

4 (5) *The State Department of Social Services and the State*
5 *Department of Health Care Services shall issue guidance and*
6 *processes for travel time between recipients that will assist the*
7 *provider and recipient to comply with this subdivision. Each county*
8 *shall provide technical assistance to providers and recipients, as*
9 *necessary, to implement this subdivision.*

10 (g) *A provider of authorized in-home supportive services*
11 *specified in subdivision (a) shall timely submit, deliver, or mail,*
12 *verified by postmark or request for delivery, a signed payroll*
13 *timesheet within two weeks after the end of each bimonthly payroll*
14 *period. Notwithstanding any other law, a provider who submits*
15 *an untimely payroll timesheet for providing authorized in-home*
16 *supportive services specified in subdivision (a) shall be paid by*
17 *the state within 30 days of the receipt of the signed payroll*
18 *timesheet.*

19 (h) *This section does not apply to a contract entered into*
20 *pursuant to Section 12302 or 12302.6 for authorized in-home*
21 *supportive services. Contract rates negotiated pursuant to Section*
22 *12302 or 12302.6 shall be based on costs consistent with a 40*
23 *hour workweek.*

24 (i) *The state and counties are immune from any liability resulting*
25 *from implementation of this section.*

26 (j) *Any action authorized under this section that is implemented*
27 *in a program authorized pursuant to Section 14132.95, 14132.97,*
28 *14132.952, or 14132.956 shall be compliant with federal Medicaid*
29 *requirements, as determined by the State Department of Health*
30 *Care Services.*

31 (k) *Notwithstanding the rulemaking provisions of the*
32 *Administrative Procedure Act (Chapter 3.5 (commencing with*
33 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
34 *Code), the State Department of Social Services and the State*
35 *Department of Health Care Services may implement, interpret, or*
36 *make specific this section by means of all-county letters or similar*
37 *instructions, without taking any regulatory action.*

38 (l) (1) *This section shall become operative only when the*
39 *regulatory amendments made by RIN 1235-AA05 to Part 552 of*
40 *Title 29 of the Code of Federal Regulations are deemed effective,*

1 *either on the date specified in RIN 1235-AA05 or at a later date*
2 *specified by the Federal Department of Labor, whichever is later.*

3 *(2) If the regulatory amendments described in paragraph (1)*
4 *become only partially effective by the date specified in paragraph*
5 *(1), this section shall become operative only for those persons for*
6 *whom federal financial participation is available as of that date.*

7 *SEC. 77. Section 12300.41 is added to the Welfare and*
8 *Institutions Code, to read:*

9 *12300.41. (a) For three months following the effective date*
10 *specified in paragraph (1) of subdivision (l) of Section 12300.4,*
11 *timesheets submitted by providers may be paid in excess of the*
12 *limitations specified in Section 12300.4, so long as the number of*
13 *hours worked by the provider within a month do not exceed the*
14 *authorized hours of the recipient or recipients served by that*
15 *provider.*

16 *(b) The State Department of Social Services, in consultation*
17 *with stakeholders, shall oversee a study of the implementation of*
18 *Section 12300.4, Section 12301.1, and this section. This study shall*
19 *cover the 24-month period subsequent to the three-month period*
20 *specified in subdivision (a). Information collected for the study*
21 *shall periodically be made available to stakeholders, including*
22 *but not limited to representatives of recipients and providers,*
23 *counties, and the legislative staff. Upon completion of the study,*
24 *a report shall be submitted to the Legislature.*

25 *(c) Using the study described in (b), it is the intent of the*
26 *Legislature to evaluate implementation of the federal regulations*
27 *described in paragraph (1) of subdivision (l) of Section 12300.4*
28 *and make any adjustments determined appropriate or necessary*
29 *through subsequent legislation.*

30 *SEC. 78. Section 12301.1 of the Welfare and Institutions Code*
31 *is amended to read:*

32 *12301.1. (a) The department shall adopt regulations*
33 *establishing a uniform range of services available to all eligible*
34 *recipients based upon individual needs. The availability of services*
35 *under these regulations is subject to the provisions of Section*
36 *12301 and county plans developed pursuant to Section 12302.*

37 *(b) (1) The county welfare department shall assess each*
38 *recipient's continuing monthly need for in-home supportive services*
39 *at varying intervals as necessary, but at least once every 12 months.*
40 *The results of this assessment of monthly need for hours of in-home*

1 *supportive services shall be divided by 4.33, to establish a*
2 *recipient's weekly authorized number of hours of in-home*
3 *supportive services, subject to any of the following, as applicable:*

4 *(A) Within the limit of the assessed monthly need for hours of*
5 *in-home supportive services, a county welfare department may*
6 *adjust the authorized weekly hours of a recipient for any particular*
7 *week for known recurring or periodic needs of the recipient.*

8 *(B) Within the limit of the assessed monthly need for hours of*
9 *in-home supportive services, a county welfare department may*
10 *temporarily adjust the authorized weekly hours of a recipient at*
11 *the request of the recipient, to accommodate unexpected*
12 *extraordinary circumstances.*

13 *(C) In addition to the flexibility provided to a recipient pursuant*
14 *to subparagraph (C) of paragraph (4) of subdivision (b) of Section*
15 *12300.4, a recipient may request the county welfare department*
16 *to adjust his or her weekly authorized hours of services to exceed*
17 *40 hours of weekly authorized hours of services per week, within*
18 *his or her total monthly authorized hours of services. A request*
19 *for adjustment may be made retrospective to the hours actually*
20 *worked. The county welfare department shall not unreasonably*
21 *withhold approval of a recipient request made pursuant to this*
22 *subparagraph.*

23 *(2) For purposes of subparagraph (C) of paragraph (1), and*
24 *prior to its implementation, the State Department of Social Services*
25 *shall develop a process for requests pursuant to that subparagraph.*
26 *The process shall include all of the following:*

27 *(A) The procedure, standards, and timeline for making a request*
28 *to adjust the authorized weekly hours of service for a recipient*
29 *defined in this section.*

30 *(B) The language used for notices about the process.*

31 *(C) Provisions for adjustments to authorization, and for*
32 *authorization after services have been provided, when the criteria*
33 *for approval have been met.*

34 *(D) A requirement that the opportunity for a revision to the*
35 *limitations of this section shall be discussed at each annual*
36 *reassessment, and also may be authorized by the county welfare*
37 *department outside of the reassessment process.*

38 *(3) Recipients shall be timely informed of their total monthly*
39 *and weekly authorized hours.*

1 (4) *The weekly authorization of services defined in this section*
2 *shall be used solely for the purposes of ensuring compliance with*
3 *the federal Fair Labor Standards Act and its implementing*
4 *regulations.*

5 (5) *Notwithstanding the rulemaking provisions of the*
6 *Administrative Procedure Act (Chapter 3.5 (commencing with*
7 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
8 *Code), the department may implement, interpret, or make specific*
9 *this subdivision by means of all-county letters, or similar*
10 *instructions, without taking any regulatory action.*

11 (c) (1) Notwithstanding subdivision (b), at the county's option,
12 assessments may be extended, on a case-by-case basis, for up to
13 six months beyond the regular 12-month period, provided that the
14 county documents that all of the following conditions exist:

15 (A) The recipient has had at least one reassessment since the
16 initial program intake assessment.

17 (B) The recipient's living arrangement has not changed since
18 the last annual reassessment and the recipient lives with others, or
19 has regular meaningful contact with persons other than his or her
20 service provider.

21 (C) The recipient or, if the recipient is a minor, his or her parent
22 or legal guardian, or if incompetent, his or her conservator, is able
23 to satisfactorily direct the recipient's care.

24 (D) There has been no known change in the recipient's
25 supportive service needs within the previous 24 months.

26 (E) No reports have been made to, and there has been no
27 involvement of, an adult protective services agency or agencies
28 since the county last assessed the recipient.

29 (F) The recipient has not had a change in provider or providers
30 for at least six months.

31 (G) The recipient has not reported a change in his or her need
32 for supportive services that requires a reassessment.

33 (H) The recipient has not been hospitalized within the last three
34 months.

35 (2) If some, but not all, of the conditions specified in paragraph
36 (1) of subdivision (c) are met, the county may consider other factors
37 in determining whether an extended assessment interval is
38 appropriate, including, but not limited to, involvement in the
39 recipient's care of a social worker, case manager, or other similar
40 representative from another human services agency, such as a

1 regional center or county mental health program, or
2 communications, or other instructions from a physician or other
3 licensed health care professional that the recipient's medical
4 condition is unlikely to change.

5 (3) A county may reassess a recipient's need for services at a
6 time interval of less than 12 months from a recipient's initial intake
7 or last assessment if the county social worker has information
8 indicating that the recipient's need for services is expected to
9 decrease in less than 12 months.

10 (d) A county shall assess a recipient's need for supportive
11 services any time that the recipient notifies the county of a need
12 to adjust the supportive services hours authorized, or when there
13 are other indications or expectations of a change in circumstances
14 affecting the recipient's need for supportive services.

15 (e) (1) Notwithstanding the rulemaking provisions of the
16 Administrative Procedure Act, Chapter 3.5 (commencing with
17 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
18 Code, until emergency regulations are filed with the Secretary of
19 State, the department may implement this section through
20 all-county letters or similar instructions from the director. The
21 department shall adopt emergency regulations implementing this
22 section no later than September 30, 2005, unless notification of a
23 delay is made to the Chair of the Joint Legislative Budget
24 Committee prior to that date. The notification shall include the
25 reason for the delay, the current status of the emergency
26 regulations, a date by which the emergency regulations shall be
27 adopted, and a statement of need to continue use of all-county
28 letters or similar instructions. Under no circumstances shall the
29 adoption of emergency regulations be delayed, or the use of
30 all-county letters or similar instructions be extended, beyond June
31 30, 2006.

32 (2) The adoption of regulations implementing this section shall
33 be deemed an emergency and necessary for the immediate
34 preservation of the public peace, health, safety, or general welfare.
35 The emergency regulations authorized by this section shall be
36 exempt from review by the Office of Administrative Law. The
37 emergency regulations authorized by this section shall be submitted
38 to the Office of Administrative Law for filing with the Secretary
39 of State and shall remain in effect for no more than 180 days by
40 which time final regulations shall be adopted. The department shall

1 seek input from the entities listed in Section 12305.72 when
2 developing all-county letters or similar instructions and the
3 regulations.

4 *SEC. 79. Chapter 5.2 (commencing with Section 16524.6) is*
5 *added to Part 4 of Division 9 of the Welfare and Institutions Code,*
6 *to read:*

7
8 *CHAPTER 5.2. COMMERCIALLY SEXUALLY EXPLOITED CHILDREN*
9 *PROGRAM*

10
11 *16524.6. The Legislature finds and declares that in order to*
12 *adequately serve children who have been sexually exploited, it is*
13 *necessary that counties develop and utilize a multidisciplinary*
14 *team approach to case management, service planning, and*
15 *provision of services, and that counties develop and utilize*
16 *interagency protocols to ensure services are provided as needed*
17 *to this population.*

18 *16524.7. (a) (1) There is hereby established the Commercially*
19 *Sexually Exploited Children Program. This program shall be*
20 *administered by the State Department of Social Services.*

21 *(2) The department, in consultation with the County Welfare*
22 *Directors Association of California, shall develop an allocation*
23 *methodology to distribute funding for the program. Funds allocated*
24 *pursuant to this section shall be utilized to cover expenditures*
25 *related to the costs of implementing the program, prevention and*
26 *intervention services, and training related to children who are*
27 *victims of commercial sexual exploitation.*

28 *(3) (A) Funds shall be provided to counties that elect to*
29 *participate in the program for the provision of training to county*
30 *children's services workers to identify, intervene, and provide case*
31 *management services to children who are victims of commercial*
32 *sexual exploitation and trafficking, and to foster caregivers for*
33 *the prevention and identification of potential victims.*

34 *(B) The department shall contract to provide training for county*
35 *workers and foster caregivers. Training shall be selected and*
36 *contracted for in consultation with the County Welfare Directors*
37 *Association, county children's services representatives, and other*
38 *stakeholders. The department shall consult and collaborate with*
39 *the California Community Colleges Chancellor's Office to provide*
40 *training for foster parents of licensed foster family homes.*

1 (4) *Funds provided to the counties electing to participate in the*
2 *program shall be used for prevention activities, intervention*
3 *activities, and services to children who are victims, or at risk of*
4 *becoming victims, of commercial sexual exploitation. These*
5 *activities and services may include, but are not limited to, all of*
6 *the following:*

7 (A) *Training foster children to help recognize and help avoid*
8 *commercial sexual exploitation. Counties may target training*
9 *activities to foster children who are at higher risk of sexual*
10 *exploitation.*

11 (B) *Engaging survivors of commercial sexual exploitation to:*
12 *(i) provide support to county staff who serve children who are*
13 *victims of commercial sexual exploitation; (ii) for activities that*
14 *may include training and technical assistance; and (iii) to serve*
15 *as advocates for and perform outreach and support to children*
16 *who are victims of commercial sexual exploitation.*

17 (C) *Consulting and coordinating with homeless youth shelters*
18 *and other service providers who work with children who are*
19 *disproportionately at risk of, or involved in, commercial sexual*
20 *exploitation, including, but not limited to, lesbian, gay, bisexual,*
21 *and transgender youth organizations, regarding outreach and*
22 *support to children who are victims of commercial sexual*
23 *exploitation.*

24 (D) *Hiring county staff trained and specialized to work with*
25 *children who are victims of commercial sexual exploitation to*
26 *support victims and their caregivers, and to provide case*
27 *management to support interagency and cross-departmental*
28 *response.*

29 (E) *Providing supplemental foster care rates for placement of*
30 *child victims of commercial sexual exploitation adjudged to be*
31 *within the definition of Section 300 to be paid to foster homes,*
32 *relatives, foster family agency certified homes, or other specialized*
33 *placements to provide for the increased care and supervision needs*
34 *of the victim in accordance with Section 11460.*

35 (b) *Funds allocated for the program shall not supplant funds*
36 *for existing programs.*

37 (c) (1) *In order to ensure timely access to services to which*
38 *commercially sexually exploited children are entitled to as*
39 *dependents in foster care, in participating counties, county agency*
40 *representatives from mental health, probation, public health, and*

1 *substance abuse disorders shall participate in the case planning*
2 *and assist in linking commercially sexually exploited children to*
3 *services that serve children who are in the child welfare system*
4 *and that are identified in the child's case plan and may include*
5 *other stakeholders as determined by the county.*

6 *(2) The entities described in paragraph (1) shall provide input*
7 *to the child welfare services agency regarding the services and*
8 *supports needed for children to support treatment needs and aid*
9 *in their recovery and may assist in linking these children to services*
10 *that are consistent with their county plans submitted to the*
11 *department pursuant to subdivision (d).*

12 *(d) (1) A county electing to receive funding from the*
13 *Commercially Sexually Exploited Children Program pursuant to*
14 *this chapter shall submit a plan describing how the county intends*
15 *to utilize the funds allocated pursuant to paragraph (4) of*
16 *subdivision (a).*

17 *(2) The county shall submit a plan to the department pursuant*
18 *to a process developed by the department, in consultation with the*
19 *County Welfare Directors Association. The plan shall include*
20 *documentation indicating the county's collaboration with county*
21 *partner agencies and children-focused entities, which shall include*
22 *the formation of a multidisciplinary team to serve children pursuant*
23 *to this chapter.*

24 *A multidisciplinary team serving a child pursuant to this chapter*
25 *shall include, but is not limited to, appropriate staff from the county*
26 *child welfare, probation, mental health, substance abuse disorder,*
27 *and public health departments. Staff from a local provider of*
28 *services to this population, local education agencies, and local*
29 *law enforcement, and survivors of commercial sexual exploitation*
30 *and trafficking may be included on the team.*

31 *16524.8. (a) Each county electing to receive funds from the*
32 *Commercially Sexually Exploited Children Program pursuant to*
33 *this chapter shall develop an interagency protocol to be utilized*
34 *in serving sexually exploited children. The county protocol shall*
35 *be developed by a team led by a representative of the county human*
36 *services department and shall include representatives from each*
37 *of the following agencies:*

38 *(1) The county probation department.*

39 *(2) The county mental health department.*

40 *(3) The county public health department.*

1 (4) *The juvenile court in the county.*

2 *The team may include, but shall not be limited to, representatives*
3 *from local education agencies, local law enforcement, survivors*
4 *of sexual exploitation and trafficking, and other providers as*
5 *necessary.*

6 **(b)** *At a minimum the interagency protocol shall address the*
7 *provision of services to children who have been sexually exploited*
8 *and are within the definition of Section 300, including, but not*
9 *limited to, the use of a multidisciplinary team approach to provide*
10 *coordinated case management, service planning, and services to*
11 *children.*

12 **16524.9.** *The State Department of Social Services, in*
13 *consultation with the County Welfare Directors Association, shall*
14 *ensure that the Child Welfare Services/Case Management System*
15 *is capable of collecting data concerning children who are*
16 *commercially sexually exploited, including children who are*
17 *referred to the child abuse hotline, children currently served by*
18 *county child welfare and probation departments who are*
19 *subsequently identified as victims of commercial sexual*
20 *exploitation.*

21 **(a)** *The department shall disseminate any necessary instructions*
22 *on data entry to the county child welfare and probation department*
23 *staff.*

24 **(b)** *The department shall implement this section no later than*
25 *June 1, 2015.*

26 **16524.10.** *The State Department of Social Services, no later*
27 *than April 1, 2017, shall provide the following information to the*
28 *Legislature regarding the implementation of this chapter:*

29 **(a)** *The participating counties.*

30 **(b)** *The number of victims served by each county.*

31 **(c)** *The types of services provided.*

32 **(d)** *Innovative strategies relating to collaboration with children,*
33 *child service providers, and survivors of commercial sexual*
34 *exploitation regarding prevention, training, and services.*

35 **(e)** *The identification of further barriers and challenges to*
36 *preventing and serving commercially sexually exploited children.*

37 **16524.11.** *This chapter shall become operative on January 1,*
38 *2015.*

39 **SEC. 80.** *Section 18901.2 of the Welfare and Institutions Code*
40 *is amended to read:*

18901.2. (a) It is the intent of the Legislature to create a program in California that provides a nominal Low-Income Home Energy Assistance Program (LIHEAP) service benefit, through the LIHEAP block grant, to all recipient households of CalFresh so that they are made aware of services available under LIHEAP and so that some households may experience an increase in federal Supplemental Nutrition Assistance Program benefits, as well as benefit from paperwork reduction.

(b) To the extent permitted by federal law, the State Department of Social Services (DSS) shall, in conjunction with the Department of Community Services and Development (CSD), design, implement, and maintain a utility assistance initiative: the “Heat and Eat” program.

(1) The nominal LIHEAP service benefit shall be funded through the LIHEAP block grant allocated for outreach activities in accordance with state and federal requirements, and shall be provided by the CSD to the DSS after receipt by the CSD of the LIHEAP block grant funds from the federal funding authorities.

(2) The total amount transferred shall be the product of the nominal LIHEAP service benefit established by the CSD in the LIHEAP state plan multiplied by the number of CalFresh recipient households as agreed upon annually by the CSD and the DSS.

(3) The total amount transferred shall be reduced by any unexpended or reinvested amounts remaining from prior transfers for the nominal LIHEAP service benefits as provided in subparagraph (C) of paragraph (1) of subdivision (c).

(c) In implementing and maintaining the utility assistance initiative, the State Department of Social Services shall do all of the following:

(1) (A) Grant recipient households of CalFresh benefits pursuant to this chapter a nominal LIHEAP service benefit out of the federal LIHEAP block grant (42 U.S.C. Sec. 8621 et seq.).

(B) In establishing the nominal LIHEAP service benefit amount, the department shall take into consideration that the benefit level need not provide significant utility assistance.

(C) Any funds allocated for this purpose not expended by CalFresh recipient households shall be recouped through the “Heat and Eat” program and reinvested into the program on an annual basis *basis*, as determined by both departments.

1 (2) Provide the nominal LIHEAP service benefit without
2 requiring the applicant or recipient to provide additional paperwork
3 or verification.

4 (3) To the extent permitted by federal law and to the extent
5 federal funds are available, provide the nominal LIHEAP service
6 benefit annually to each recipient of CalFresh benefits.

7 (4) (A) Deliver the nominal LIHEAP service benefit using the
8 Electronic Benefit Transfer (EBT) system or other nonpaper
9 delivery system.

10 (B) Notification of a recipient's impending EBT dormant
11 account status shall not be required when the remaining balance
12 in a recipient's account at the time the account becomes inactive
13 is ninety-nine cents (\$0.99) or less of LIHEAP service benefits.

14 (5) Ensure that receipt of the nominal LIHEAP service benefit
15 pursuant to this section shall not adversely affect a CalFresh
16 recipient household's eligibility, reduce a household's CalFresh
17 benefits, or disqualify the applicant or recipient of CalFresh
18 benefits from receiving other nominal LIHEAP service benefits
19 or other utility benefits for which they may qualify.

20 (d) Recipients of the nominal LIHEAP service benefit pursuant
21 to this section shall remain subject to the additional eligibility
22 requirements for LIHEAP assistance as outlined in the California
23 LIHEAP state plan, *plan that is* developed by the CSD.

24 (e) (1) To the extent permitted by federal law, a CalFresh
25 household receiving or anticipating receipt of nominal LIHEAP
26 service benefits pursuant to the utility assistance initiative or any
27 other law shall be entitled to use the full standard utility allowance
28 (SUA) for the purposes of calculating CalFresh benefits. A
29 CalFresh household shall be entitled to use the full SUA regardless
30 of whether the nominal LIHEAP service benefit is actually
31 redeemed.

32 (2) If use of the full SUA, instead of the homeless shelter
33 deduction, results in a lower amount of CalFresh benefits for a
34 homeless household, the homeless household shall be entitled to
35 use the homeless shelter deduction instead of the full SUA.

36 (f) ~~The department This section shall implement the initiative~~
37 ~~by become inoperative on July 1, 2014, and, as of January 1, 2013.~~
38 ~~2015, is repealed, unless a later enacted statute, that becomes~~
39 ~~operative on or before January 1, 2015, deletes or extends the~~
40 ~~dates on which it becomes inoperative and is repealed.~~

1 *SEC. 81. Section 18901.2 is added to the Welfare and*
2 *Institutions Code, to read:*

3 18901.2. (a) *There is hereby created the State Utility*
4 *Assistance Subsidy (SUAS), a state-funded energy assistance*
5 *program that shall provide energy assistance benefits to eligible*
6 *CalFresh households so that the households may receive a*
7 *standard utility allowance to be used to help meet its energy costs,*
8 *receive information about energy efficiency, and so that some*
9 *households may experience an increase in federal Supplemental*
10 *Nutrition Assistance Program benefits, as well as benefit from*
11 *paperwork reduction.*

12 (b) *To the extent required by federal law, the Department of*
13 *Community Services and Development shall delegate authority to*
14 *the State Department of Social Services to design, implement, and*
15 *maintain SUAS as a program created exclusively for purposes of*
16 *this section, similar to the federal Low-Income Home Energy*
17 *Assistance Program (LIHEAP) (42 U.S.C. Sec. 8621 et seq.).*

18 (c) *In designing, implementing, and maintaining the SUAS*
19 *program, the State Department of Social Services shall do all of*
20 *the following:*

21 (1) *Provide households that do not currently qualify for, nor*
22 *receive, a standard utility allowance, with a SUAS benefit in an*
23 *amount and frequency sufficient to meet federal requirements*
24 *specified in Section 2014(e)(6)(C)(iv) of Title 7 of the United States*
25 *Code if the household meets either of the following requirements:*

26 (A) *The household would become eligible for CalFresh benefits*
27 *if the standard utility allowance was provided.*

28 (B) *The household would receive increased benefits if the*
29 *standard utility allowance was provided.*

30 (2) *Provide the SUAS benefit without requiring the applicant*
31 *or recipient to provide additional paperwork or verification.*

32 (3) *Deliver the SUAS benefit using the Electronic Benefit*
33 *Transfer (EBT) system.*

34 (4) *Notwithstanding any other law, notification of a recipient's*
35 *impending EBT dormant account status shall not be required when*
36 *the remaining balance in a recipient's account at the time the*
37 *account becomes inactive is equal to or less than the value of one*
38 *year of SUAS benefits.*

39 (5) *Ensure that receipt of the SUAS benefit pursuant to this*
40 *section does not adversely affect a CalFresh recipient household's*

1 *eligibility, reduce a household's CalFresh benefits, or disqualify*
 2 *the applicant or recipient of CalFresh benefits from receiving*
 3 *other public benefits, including other utility benefits, for which it*
 4 *may qualify.*

5 *(d) (1) To the extent permitted by federal law, a CalFresh*
 6 *household that receives SUAS benefits in the month of application*
 7 *for new cases or in the previous 12 months for existing cases is*
 8 *entitled to use the full standard utility allowance for the purposes*
 9 *of calculating CalFresh benefits. A CalFresh household shall be*
 10 *entitled to use the full standard utility allowance regardless of*
 11 *whether the SUAS benefit actually is expended by the household.*

12 *(2) If use of the full standard utility allowance, instead of the*
 13 *homeless shelter deduction, results in a lower amount of CalFresh*
 14 *benefits for a homeless household, the homeless household shall*
 15 *be entitled to use the homeless shelter deduction instead of the full*
 16 *standard utility allowance.*

17 *(e) This section shall not be implemented until funds are*
 18 *appropriated for that purpose by the Legislature in the annual*
 19 *Budget Act or related legislation.*

20 *(f) This section shall become operative on July 1, 2014.*

21 *SEC. 82. Section 18901.5 of the Welfare and Institutions Code*
 22 *is amended to read:*

23 18901.5. (a) (1) The department shall establish a program of
 24 categorical eligibility for CalFresh in accordance with Section 5(a)
 25 of the federal Food and Nutrition Act of 2008 (7 U.S.C. Sec.
 26 2014(a)), and implementing regulations, to improve nutrition and
 27 promote the retention and development of assets and resources for
 28 needy households who meet all other federal Supplemental
 29 Nutrition Assistance Program eligibility requirements. Categorical
 30 eligibility for CalFresh shall also apply to any individual who is
 31 a member of a household that will be receiving or is eligible to
 32 receive cash assistance under Part 5 (commencing with Section
 33 17000), or eligible to receive food assistance under Chapter 10.1
 34 (commencing with Section 18930).

35 (2) The department, to the extent permitted by federal law, shall
 36 design and implement a program of categorical eligibility for
 37 CalFresh for the purpose of establishing the gross income limit
 38 for the federal Temporary Assistance for Needy Families and state
 39 maintenance of effort funded service that confers categorical
 40 eligibility for any household that is categorically eligible pursuant

1 to paragraph (1), and that includes a member who ~~receives, or is~~
2 ~~eligible to receive,~~ *receives* medical assistance under Chapter 7
3 (commencing with Section 14000) of Part 3.

4 (b) The director shall implement the program established
5 pursuant to this section only with the appropriate federal
6 authorization and if implementation would not result in the loss
7 of federal financial participation.

8 ~~(c) Notwithstanding the rulemaking provisions This section~~
9 ~~shall become inoperative on July 1, 2014, and, as of the~~
10 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~
11 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
12 ~~Code) and Section 10554, until emergency regulations are filed~~
13 ~~with the Secretary of State, the State Department of Social Services~~
14 ~~may implement the changes made by subdivision (a) through~~
15 ~~all-county letters or similar instructions from the director. The~~
16 ~~department shall adopt emergency regulations as necessary to~~
17 ~~implement those amendments January 1, 2015, is repealed, unless~~
18 ~~a later enacted statute, that becomes operative on or before January~~
19 ~~1, 2010. The program established pursuant to this section shall be~~
20 ~~established on 2015, deletes or before July 1, 2009, and shall be~~
21 ~~fully implemented as to new applicants for CalFresh extends the~~
22 ~~dates on or before January 1, 2010. which it becomes inoperative~~
23 ~~and is repealed.~~

24 ~~(d) The department shall adopt regulations to implement this~~
25 ~~section. The adoption, amendment, repeal, or readoption of a~~
26 ~~regulation authorized by this section is deemed to address an~~
27 ~~emergency, for purposes of Sections 11346.1 and 11349.6 of the~~
28 ~~Government Code, and the department is hereby exempted for this~~
29 ~~purpose from the requirements of subdivision (b) of Section~~
30 ~~11346.1 of the Government Code. The emergency regulations shall~~
31 ~~be exempt from review by the Office of Administrative Law. The~~
32 ~~department shall adopt final regulations implementing the program~~
33 ~~authorized by this section on or before July 1, 2010.~~

34 *SEC. 83. Section 18901.5 is added to the Welfare and*
35 *Institutions Code, to read:*

36 *18901.5. (a) The department shall establish a program of*
37 *categorical eligibility for CalFresh in accordance with Section*
38 *5(a) of the federal Food and Nutrition Act of 2008 (7 U.S.C. Sec.*
39 *2014(a)), and implementing regulations, to improve nutrition and*
40 *promote the retention and development of assets and resources*

1 *for needy households who meet all other federal Supplemental*
 2 *Nutrition Assistance Program eligibility requirements. Categorical*
 3 *eligibility for CalFresh shall also apply to any individual who is*
 4 *a member of a household that will be receiving or is eligible to*
 5 *receive cash assistance under Part 5 (commencing with Section*
 6 *17000), or eligible to receive food assistance under Chapter 10.1*
 7 *(commencing with Section 18930).*

8 *(b) The director shall implement the program established*
 9 *pursuant to this section only with the appropriate federal*
 10 *authorization and if implementation would not result in the loss*
 11 *of federal financial participation.*

12 *(c) This section shall become operative on July 1, 2014.*

13 *SEC. 84. Section 18906.55 of the Welfare and Institutions Code*
 14 *is amended to read:*

15 *18906.55. (a) (1) Notwithstanding Section 18906.5 or any*
 16 *other law, as a result of the substantial fiscal pressures on counties*
 17 *created by the unprecedented and unanticipated CalFresh caseload*
 18 *growth associated with the economic downturn beginning in 2008,*
 19 *and in order to provide fiscal relief to counties as a result of this*
 20 *growth, a county that meets the maintenance of effort requirement*
 21 *pursuant to Section 15204.4 entirely through expenditures for the*
 22 *administration of CalFresh in the 2010–11, 2011–12, 2012–13,*
 23 *2013–14, and ~~2013–14~~ 2014–15 fiscal years shall receive the full*
 24 *General Fund allocation for administration of CalFresh without*
 25 *paying the county’s share of the nonfederal costs for the amount*
 26 *above the maintenance of effort required by Section 15204.4.*

27 *(2) For the 2015–16, 2016–17, and 2017–18 fiscal years, the*
 28 *waived portion of each county’s share of the nonfederal costs for*
 29 *the amount above the maintenance of effort required by Section*
 30 *15204.4 shall be reduced incrementally, so that there will be no*
 31 *waiver of the county’s share in the 2018–19 fiscal year and each*
 32 *fiscal year thereafter. The waived portion of the county’s share*
 33 *shall be 75 percent in the 2015–16 fiscal year, 50 percent in the*
 34 *2016–17 fiscal year, and 25 percent in the 2017–18 fiscal year of*
 35 *the amount above the maintenance of effort required by Section*
 36 *15204.4 that would be required to access the county’s full General*
 37 *Fund allocation for administration of CalFresh from the state.*
 38 *Once a county satisfies its maintenance of effort obligation under*
 39 *Section 15204.4, the department shall grant the county access to*
 40 *the state funds for which the match is waived. Any county that*

1 *expends funds in excess of the amount required to meet the*
2 *maintenance of effort required by Section 15204.4 in the 2015–16,*
3 *2016–17, and 2017–18 fiscal years shall receive the amount of*
4 *General Fund moneys that the county would have otherwise*
5 *received based on the nonfederal sharing ratios in Section 18906.5,*
6 *up to the county’s full General Fund allocation for that fiscal year.*

7 (b) The full General Fund allocation for administration of
8 CalFresh pursuant to subdivision (a) shall equal 35 percent of the
9 total federal and nonfederal projected funding need for
10 administration of CalFresh. The methodology used for calculating
11 those projections shall remain the same as it was for the 2009–10
12 fiscal year for as long as this section remains in effect.

13 (c) ~~No relief~~ *Relief* to the county share of administrative costs
14 authorized by this section shall *not* result in any increased cost to
15 the General Fund as determined in subdivision (b).

16 (d) Subdivision (a) shall not be interpreted to prevent a county
17 from expending funds in excess of the amount required to meet
18 the maintenance of effort required by Section 15204.4.

19 (e) This section shall become inoperative on July 1, ~~2014,~~ 2018,
20 and, as of January 1, ~~2015,~~ 2019, is repealed, unless a later enacted
21 statute, that becomes operative on or before January 1, ~~2015,~~ 2019,
22 deletes or extends the dates on which it becomes inoperative and
23 is repealed.

24 SEC. 85. (a) *It is the intent of the Legislature that increased*
25 *staffing and funding resources for the State Department of Social*
26 *Service’s Community Care Licensing Division (CCLD)*
27 *appropriated in the Budget Act of 2014 be used to enhance the*
28 *CCLD’s structure and improve its operations, including the*
29 *recruitment and training of qualified licensing analysts and*
30 *managers, and to address the changing nature of licensed facilities.*
31 *These quality enhancement measures, once fully implemented, are*
32 *intended to improve the underlying foundation of CCLD’s*
33 *regulatory operations. It is further the intent of the Legislature,*
34 *once these actions are implemented to, over a specified period of*
35 *time, increase the frequency of facility inspections resulting in*
36 *annual inspections for some or all facility types.*

37 (b) *During the 2015–16 legislative budget subcommittee*
38 *hearings, the State Department of Social Services shall update the*
39 *Legislature on the status of the structural and quality enhancement*

1 *improvements described in subdivision (a), including all of the*
2 *following:*

3 *(1) The status of CCLD's filling of the authorized positions*
4 *included in the Budget Act of 2014 and current division staffing*
5 *levels, filled positions, and vacant positions.*

6 *(2) A description of the quality enhancement and program*
7 *improvement activities implemented to date, and the time frame*
8 *for implementing the remaining improvements.*

9 *(3) Based on the information provided in paragraphs (1) and*
10 *(2), and any other relevant factors, an estimated time frame for*
11 *beginning a ramp-up to increase the frequency of facility*
12 *inspections.*

13 *SEC. 86. Except as otherwise provided in this act, the*
14 *Department of Community Services and Development shall receive*
15 *and administer all state and federal funds that are allocated for*
16 *programs to provide energy assistance to qualified low-income*
17 *individuals, in accordance with subdivision (a) of Section 16367.6*
18 *of the Government Code.*

19 *SEC. 87. The amounts appropriated in Item 5180-111-0001*
20 *and Item 5180-111-0890 of Section 2.00 of the Budget Act of 2014*
21 *for implementation of regulations promulgated by the federal*
22 *Department of Labor shall be available solely for the purpose of*
23 *complying with those regulations. In the event that federal*
24 *implementation of those regulations is fully or partially postponed*
25 *beyond January 1, 2015, the amount of funding appropriated for*
26 *purposes of implementing those regulations that no longer is*
27 *necessary for that purpose shall be available for other purposes*
28 *within the In-Home Supportive Services program, upon 30-day*
29 *prior written notification by the Department of Finance to the*
30 *Joint Legislative Budget Committee, specifying the amount of*
31 *available funding and the alternative purposes for which those*
32 *available funds are proposed to be used.*

33 *SEC. 88. (a) Notwithstanding the rulemaking provisions of*
34 *the Administrative Procedure Act (Chapter 3.5 (commencing with*
35 *Section 11340) of Part 1 of Division 3 of Title 2 of the Government*
36 *Code), the department may implement and administer the changes*
37 *made by Sections 1, 64, 67, 68, 69, 70, 72, 73, 74, 75, 77, 79, 80,*
38 *and 81 of this act through all-county letters or similar instructions*
39 *until regulations are adopted.*

1 (b) The department shall adopt emergency regulations
2 implementing these provisions no later than January 1, 2016. The
3 department may readopt any emergency regulation authorized by
4 this section that is the same as, or substantially equivalent to, any
5 emergency regulation previously adopted pursuant to this section.
6 The initial adoption of regulations pursuant to this section and
7 one readoption of emergency regulations shall be deemed to be
8 an emergency and necessary for the immediate preservation of
9 the public peace, health, safety, or general welfare. Initial
10 emergency regulations and the one readoption of emergency
11 regulations authorized by this section shall be exempt from review
12 by the Office of Administrative Law. The initial emergency
13 regulations and the one readoption of emergency regulations
14 authorized by this section shall be submitted to the Office of
15 Administrative Law for filing with the Secretary of State and each
16 shall remain in effect for no more than 180 days, by which time
17 final regulations shall be adopted.

18 SEC. 89. No reimbursement is required by this act pursuant
19 to Section 6 of Article XIII B of the California Constitution for
20 certain costs that may be incurred by a local agency or school
21 district because, in that regard, this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

27 However, if the Commission on State Mandates determines that
28 this act contains other costs mandated by the state, reimbursement
29 to local agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code.

32 SEC. 90. This act is a bill providing for appropriations related
33 to the Budget Bill within the meaning of subdivision (e) of Section
34 12 of Article IV of the California Constitution, has been identified
35 as related to the budget in the Budget Bill, and shall take effect
36 immediately.

37 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
38 ~~changes relating to the Budget Act of 2014.~~